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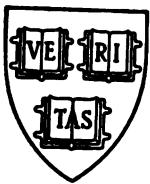
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ANALYSIS

OF

THE LAWS OF GEORGIA,

SINCE THE CODE OF 1882.

Containing the laws of 1882, 1883, 1884, 1885, 1886, 1887, and
an analysis complete and precise for all the laws of Georgia
1888.

By A. H. DAVIS, OF THE ATLANTA BAR.

ATLANTA, GA.:
CONSTITUTION PUBLISHING COMPANY,
1888.

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TESTIMONIALS.

From Chief Justice Bleckley:

"The book is intended to be of service both to students and practitioners. For the latter it will serve two purposes: In the rush of business it will save time by affording a convenient and reliable means of ascertaining whether the law of any part of the Code has been changed, and if so, exactly in what respect. The systematic arrangement in correspondence with the sections of the Code, and the omission of everything unnecessary to a full understanding of the Acts, will make reference to this book much easier than to the published Acts, where the arrangement is ill-suited to the practitioner's needs, and where the gold is buried in a mass of earth. The author has done the digging for his readers.

"For purposes of study or review, the same considerations of handiness and system recommend the work. There can be no question of the great advantage of one small book, well-arranged and without superfluities, over several volumes laden with an immense amount of matter of little or no consequence.

"I cordially and confidently recommend the book to the profession, and to all judges, magistrates and officers of the State.

[Signed]

LOGAN E. BLECKLEY."

From Attorney-General Anderson.

"A. H. DAVIS, Esq.:

Dear Sir—I have examined, with considerable care, your analysis of the Acts passed by the Legislature of Georgia since the Revised Code of 1882, and am very favorably impressed with it.

"The work you undertook is well done. It is characterized by great clearness and accuracy, and will be a valuable addition to the library of every practicing lawyer. The use of such a book will be the means of saving both time and labor, as well as of the prevention of serious mistakes.

Very respectfully yours,

[Signed]

CLIFFORD ANDERSON."

From Judge Marshall J. Clarke.

"I have read the foregoing communication from Mr. Anderson, the Attorney-General, to Mr. Davis, and endorse what it contains. I have examined, as carefully as my opportunities would allow, the work prepared by Mr. Davis.

MARSHALL J. CLARKE."

Atlanta, Ga., May 26th, 1888.

Judge S. C. A. C."

Rec. May 20, 1902.

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PREFACE.

The Georgia law of to-day is necessarily scattered because of frequent changes and improvements. It is the purpose of this work to bring together in systematic shape and for handy reference the general enactments of the several Legislatures since the Code of 1882 was adopted, up through the session of 1887. Local and special legislation has been neglected, and only that which affects the great body of the law given place in a work whose brevity must be a chief recommendation.

With the prime object in view of presenting compactly the law as it differs from that laid down in the Code of 1882, it was decided to repeat, with a different classification, most of the valuable work of Chief Justice Bleckley in his report on the legislation enacted between 1873 and 1882 and omitted from the last Code. Credit is given where it is due, and numerous references are made to the said invaluable report.

In the same way the Addenda to the Code are included for the sake of completeness and better arrangement.

Sometimes the exact language of the Act is quoted; sometimes it is paraphrased for shortness; sometimes a reference is sufficient. But in every case to explain the contents of the Act, a title in italics is put, warning the careless and helping the hurried man.

The classification follows strictly that of the Code of 1882, so that this work will be found to fit the Code as closely as possible. In this way the practitioner or student can most readily inform himself whether any particular section of the Code has suffered change, and if so, exactly in what respect.

The references in the margin are of two sorts. First, where a section of the Code is altered, the change is noted under the number of the section. Secondly, where entirely new matter occurs, the number preceding it indicates where such matter is properly inserted in the Code. Thus, for example, the number 279 [c] shows that the new matter under it should be taken just after §279 (b) of the Code. The [] indicate the writer's numbering, the () that of the Code or Addenda. B. R. is an abbreviation for Bleckley's Report.

The Index, if a good one, would alone be of great value.

A. H. DAVIS.

ATLANTA, GA., October 1st, 1888.

ANALYSIS.

SECTION.

3. *Obligation of Statutes. Must first be published.* This requirement no longer exists, since the section is repealed.

Acts 1876, p. 28; Addenda, p. v.; B. R. No. 39.

17. *Survey to establish State line between Rabun county, Georgia, and Macon county, North Carolina.*

Acts 1882-3, p. 122.

Survey to establish State line between Dade county, Georgia, and Marion and Hamilton counties, Tennessee.

Acts 1887, p. 105.

40. *New apportionment of Congressional Districts.* In pursuance of the Act of Congress of Feb. 25, 1882. Instead of nine, there are now ten districts as follows:

(1). Appling, Bryan, Bullock, Camden, Charlton, Chattham, Clinch, Echols, Effingham, Emanuel, Glynn, Liberty, McIntosh, Pierce, Screven, Tattnall, Ware and Wayne.

(2). Baker, Berrien, Brooks, Calhoun, Clay, Colquitt, Decatur, Dougherty, Early, Lowndes, Miller, Mitchell, Quitman, Randolph, Terrell, Thomas and Worth.

(3). Coffee, Dodge, Dooly, Houston, Irwin, Laurens, Lee, Macon, Montgomery, Pulaski, Schley, Stewart, Sumter, Telfair, Webster and Wilcox.

(4). Carroll, Chattahoochee, Coweta, Harris, Heard, Marion, Meriwether, Muscogee, Talbot, Taylor and Troup.

(5). Campbell, Clayton, DeKalb, Douglass, Fayette, Fulton, Henry, Newton, Rockdale, Spalding and Walton.

(6). Baldwin, Bibb, Butts, Crawford, Jasper, Jones, Monroe, Pike, Twiggs, Upson and Wilkinson.

(7). Bartow, Catoosa, Chattooga, Cobb, Dade, Floyd, Gordon, Haralson, Murray, Paulding, Polk, Walker and Whitfield.

(8). Clarke, Elbert, Franklin, Greene, Hancock, Hart, Madison, Morgan, Oconee, Oglethorpe, Putnam and Wilkes.

(9). Banks, Cherokee, Dawson, Fannin, Forsyth, Gilmer, Gwinnett, Hall, Habersham, Jackson, Lumpkin, Milton, Rabun, Pickens, Towns, Union and White.

(10). Burke, Columbia, Glasscock, Jefferson, Johnson, Lincoln, McDuffie, Richmond, Taliaferro, Warren and Washington.

Acts 1882-3, p. 121.

42. *Changes in Judicial Circuits.*

Atlanta Circuit. DeKalb and Clayton made into Stone Mountain Circuit. Acts 1884-'85, p. 108. (See below.)

Brunswick Circuit. Echols transferred to Southern Circuit. B. R. No. 60.

Coweta Circuit. Douglas transferred to Stone Mountain Circuit.

Acts 1887, p. 84.

Eastern Circuit. Bulloch transferred to Middle Circuit. B. R. No. 40.

Middle Circuit. Glascock transferred to Northern Circuit. B. R. No. 5.

Pataula Circuit. Stewart transferred to Southwestern Circuit. B. R. No. 139.

Western Circuit. Oconee added. B. R. No. 27.

Stone Mountain Circuit. Created out of the counties of Clayton and DeKalb, to exist until January 1, 1888, after which these counties are to revert to their old position in the Atlanta Circuit. Provision for judge, solicitor-general, transfer of writs, etc. The judge of this circuit may aid in disposing of the business of the Atlanta Circuit when not engaged with the business of his own.

Acts 1884-'85, p. 108.

By the late Act, Stone Mountain Circuit is continued, and Douglas County added in.

Acts 1887, p. 48.

54. *Regulation of requisitions issued by the Governor for the extradition of fugitives from justice.* Application must be made "by a Solicitor-General, or a Solicitor of a County Court, Judge of said city or county court, or the Mayor of any city or town." It must show the full name of the fugitive, the crime charged, the State or Territory to which he has fled, the full name of the person suggested to act as agent of this State to bring back the fugitive, which agent the prosecutor cannot be. The Governor may appoint some one to bring the fugitive back. The application must show, also, that its purpose is to meet the ends of public justice in a criminal prosecution, and not to enforce the collection of a debt, nor is for any private purpose; which must be certified by the affidavit of the prosecutor (if any). If the fugitive has been indicted, two certified copies of the indictment or presentment must accompany the application. Where there has been no indictment the affidavit "must describe the crime committed, with all the particularity required in an indictment, and two certified copies of such affidavit must accompany the petition for the requisition." These regulations are not exclusive of, but additional to the others prescribed. For each application on which a requisition issues, the Solicitor making it is entitled to a fee of five dollars.

Acts 1884-'85, p. 141.

72. (a). *State Librarian.*

Nominated by the Governor, elected by the Senate for three years. Addenda, p. ix; B. R. No. 113.

79. (b). *Duties of State Librarian, as to official reports.* B. R. No. 28.

28. (a). *Quadrennial destruction of election returns.*

The Secretary of State is authorized to destroy quadrennially the returns on file in his office of the elections of officials whose terms have expired.

Addenda, p. viii; B. R. No. 102.

92. *Suspension of State Treasurer by Governor.* This section is thought to be superseded by § 114 (b), (c). B. R. No. 50.110. *Repealed*, by the Constitution (§5126), and not as stated in the text-note. B. R. No. 15. ~~151-189-p 45~~177. [a]. *Duty of Officers. Inventory.* All public officers of the State must annually make an inventory of all public property in their charge and enter the same in a book. Upon going out of office, they must turn over such property to successors, taking a receipt therefor.

Acts 1882-3, p. 126.

186. (a.) *Registration of appropriation bills.*

~~205-187-12~~ Addenda, p. x.; B. R. No. 135.

228. par. 2. *Duty of Supreme Court Reporter as to publication of Reports.* Erase: "But in no event shall more than two volumes be published annually," and put: "and the reporter is authorized to publish the reports as rapidly as may be practicable, after the delivery of decision by the judges."

Acts 1882-3, p. 76.

228. (a.) *Publication of Supreme Court Reports Regulated.*

Acts 1882-3, p. 76.

232. (just after). *The Supreme Court Stenographer.* Appointed and removable by the Judges. His duty is to attend all sessions of the Court and report what is required of him. His salary, fixed from year to year by the Judges, may not exceed \$1,500.

Acts 1886, p. 31.

233. *Sheriff of the county where the Supreme Court sits to act as its sheriff.* This is *repealed*. The Judges of the Supreme Court appoint their own sheriff for any term not exceeding six years.

Acts 1882-3, p. 74.

235. (a). *Sheriff's costs in Supreme Court in pauper cases.* For each case properly certified by the clerk and approved by the Judges, \$1.25. [changed, 235 [b]].

Addenda, p. x; B. R. No. 137.

235. [b]. *Salary of Supreme Court Sheriff. Costs go to State.* "The Sheriff of the Supreme Court of Georgia shall receive for his services a salary of eight hundred dollars per annum, payable quarterly, as other salaries are paid, on warrant from the Governor to the Treasurer. The sum of one dollar and twenty-five cents, taxed in the bill of costs in the Supreme Court in each case as Sheriff's costs, shall be collected as other costs in that court are now collected, and shall be paid into the treasury of the State, and not to the Sheriff."

Acts 1887, p. 104.

247. (a)-(d). *Superior Court Judges may preside in bank.* In counties having a city of ten thousand inhabitants, two or more Judges of the Superior Court may preside in bank or in two or more sections, so as to facilitate the trial of causes. These provisions at first applied to all cases *except felonies*. Addenda, p. vn, viii; B. R. No. 93.

But now, the above provisions are extended so as to apply to *all causes*, civil as well as criminal.

Acts 1886, p. 34.

267, par. 5. *Dockets to be kept by the Clerks of the Superior Courts.* Strike out par. 5 of this section and substitute: 267(2) 37/499

5. To keep in his office, in vacation and in court, during term-time, the following dockets, to-wit:

An issue docket, on which shall be placed all civil cases pending in their respective courts, in which an issue to be tried by a jury is made or likely to be made.

A motion docket, on which shall be placed only those motions which are to be decided by the judge without the intervention of a jury; all civil cases pending in the Superior Court shall be entered on one of the two above-named dockets, and in all cases shall be entered and stand for trial in the order in which they came into court, without reference to the nature of the case, and such entry shall include the names of the parties and their attorneys, the nature of the action and the character of service; no other entry or memoranda shall be made on such dockets, except by the presiding judge or his order.

He shall also keep an appearance docket for common law cases only.

Two subpœna dockets—one for civil, the other for criminal cases; such dockets shall show the name of the person for whom subpœna issued, its date, at whose instance it was issued, and to whom delivered, and shall likewise show all commissions for interrogatories which may have been issued.

An execution docket which shall show the names of the parties and their attorneys, date, the time returnable, to whom and when delivered, when returned and memoranda of all entries on the original.

A trial docket of criminal cases, showing the names of the parties, their attorneys, and the character of each case in the order in which they were returned to court.

Also a trial docket of criminal cases, to be known as the *dead* docket, to which cases shall be transferred, at the discretion of the presiding judge, and which shall only be called at his pleasure.

Duplicates of the issue and motion dockets for the use of the bar.

In force Jan. 1, 1884. Acts 1882-3, p. 55.

267, par. 6. *Record of pleadings and other original papers, by clerks of Superior and City Courts.* Instead of "no tax charged," put "no-charge taxed." Insert "as," before "for a contempt." B. R. No. 119.

267, par. 8. *Clerk must keep duplex index of recorded instruments.* The clerk of Superior Court of each county [shall] provide, at the expense of each county, a duplex index book, wherein shall be indexed the names of grantor and grantees of every instrument hereafter recorded in his office, the character of the instrument, date of the instrument, book where recorded and the date of the record.

Acts 1887, p. 53.

279. [c]. *Powers and Pay of Deputy Clerks of County Courts.* They may do such of the following acts as are not judicial in their nature: administer oaths and attest affidavits, issue subpoenas and processes on declarations, and executions on judgments, foreclosure of mortgages, and other liens bearing test in the name of the judge and returnable as if issued by him. They shall receive for their services, out of the compensation of said judges, such pay as they and the judges may agree on.

Acts 1882-3, p. 105.

280. (a). *Provision when County Judge is disqualified.* The parties may select a practicing attorney of the court, and, such consent being entered of record, the attorney may exercise all the functions of judge in that case. If the parties fail to agree, the judge shall transfer the case to the Superior Court at the next term thereof, to be tried as appeal cases are tried. *282-4. act 91-12.*

Addenda, p. IX.; B. R. No. 124.

Now, the judge of any other county court may preside in the place of the disqualified judge.

Acts 1884-5, p. 97.

288. *Bond of county court bailiff, not to exceed five hundred dollars.*

Line 6. Instead of "two," put "five." *285, 1884, p. 32*

Acts 1887, p. 32.

298. (a). *Pay of jurors in County Court.* Unless governed by local law, their pay is the same as that of traverse jurors in the Superior Courts.

Addenda, p. IX.; B. R. No. 125.

300. *Pay of Bailiffs of the County Courts.* Two dollars per day, but not to exceed in all thirty-two dollars per annum.

Acts 1884-5, p. 104. *301-1884, p. 12.*

304-312. *County Courts.* Compare later enactments on the same subject in §§287 (a); 291. B. R. No. 89.

331. *Jurisdiction of Ordinary.* He has power to appoint the County Administrator. (See 2495).

Acts 1882-3, p. 80.

335. *Unrepresented estates.* Turned over to the county administrator. (See 2495).

337. *Authority of the Ordinary.* It is his duty to insure the books of the State in his own and in the clerk of the Superior Court's office. [The Act says: "The officer or officers having charge of the financial affairs of each county," which in the absence of local legislation is the Ordinary.]

338. *Ordinary. Special tax for benefit of disabled Confederates.* The restriction, "that he has not more than one thousand dollars of taxable property," is removed.

Acts 1884-5, p. 127.

Under this head may be mentioned the Act allowing maimed Confederates who have neglected to draw such sums as they have from time to time been entitled to by law, to draw such sums up to the date of application.

Acts 1884-5, p. 138.

339-1884, p. 45

340. (a), (b). *Ordinary, etc., to furnish dockets to justices and notaries, and how dockets and papers are to be disposed of by the latter.*

Addenda, p. ix.; B. R. No. 117.

344, par. 1. *Duty of Ordinary's Clerk.* Add at end of par. 1: "and administer all affidavits connected with or incident to the business of said court."

Acts 1882-3, p. 70.

344, par. 4. *Ordinary may issue fi. fa. for costs.* Whenever the Ordinary shall have any costs due him by executors, administrators or guardians, upon neglect or failure to pay the same on demand, he may issue a *fi. fa.* therefor at any regular term of his court. So in all cases tried before the Ordinary, in which judgment has been entered, he may issue *fi. fa.* for costs. The *fi. fa.* shall be directed to "all and singular the sheriffs of this State," and made returnable to the Court of Ordinary. "Whenever any claim, illegality or other defense, is filed by the defendant in *fi. fa.* it shall be the duty of the sheriff to return the *fi. fa.* and the defense to the next Superior Court of said county, where the issues made by said defense shall be tried as other cases in said Superior Court."

Acts 1887, p. 54.

369. *Duties of Attorney-General.* It is his duty to appear for the State, in company with the Solicitor-General, in all cases removed into the United States Courts under section 643 of the Revised Statutes of the United States.

Acts 1882-3, p. 98.

377. *Duties of Solicitor-General.* It is his duty to appear for the State, in company with the Attorney-General in all cases removed into the United States Courts under section 643 of the Revised Statutes of the United States. *452.4. act 73-1523*

Acts 1882-3, p. 98.

457. *Duties of a Justice.* It is his duty to furnish certified transcripts of any judicial proceeding in his court. The fee allowed is the same as that of the Clerk of the Superior Court for similar service. When the transcript is to be used in another county, the official character of the justice must be certified to by the Ordinary of his county.

Acts 1884-5, p. 100. *452.4. act 73-1523*

480. (a). *Punishments in Police Courts.* In case fines imposed are not paid, the alternative punishment allowed by law may then be resorted to.

Addenda, p. viii.; B. R. No. 94.

491. (a). *Counties authorized to establish system of drainage.* At end change "are valid" to "are hereby ratified and made valid," thus establishing, more conclusively perhaps, the continuance of former laws on the subject. B. R. No. 97.

497. *Provision for the insurance of certain books belonging to the State.* (See 337.)

Acts 1882-3, p. 132.

504. [a]. County jails. Inspection by Grand Jury. "It shall be the duty of the Grand Juries of the several counties of this State to carefully inspect the sanitary condition of the common jails of their respective counties at each regular term of the Superior Court held therein, and it shall be their duty to make such recommendations to the ordinaries of their counties in their general presentments as may be necessary to provide for the proper heating and ventilation of such jails, which recommendations it is hereby made the duty of the several ordinaries of this State to observe and strictly enforce; and it is further made the duty of such grand juries to make such presentments in regard to the general sanitary condition of their jails and the treatment of the inmates of the same as the facts may justify. It shall be the duty of the judges of the Superior Courts of this State to give this Act in special charge to the grand juries in each county in this State at each regular term of the Superior Court held in such counties."

Acts 1887, p. 102.

508. (c). Financial returns by county officers to grand jury. Instead of "section 66," put "section 508 (a)." B. R. No. 31.

508. (m 1)–(m 5). Bonded debt of cities and towns. Authority to compromise. Addenda, p. vi; B. R. No. 82.

508. (n)–(s). Change of County lines. This part of the Code is not in force. The substitute will be found in the Addenda.

Addenda, p. viii, ix; B. R. Nos. 74, 110.

508. (t). County lines. Dispute, how settled. When the grand jury of either county presents that the line needs to be marked out, the clerk of the Superior Court must certify such presentment to the Governor, whose duty thereupon is to appoint a competent surveyor not residing in either county, to mark out the disputed line and return plat of survey to Secretary of State's office to be recorded. Such survey is final and conclusive. For details, see the Act.

Acts 1887, p. 106.

508. (x). Elections for change of County site. Once only in five years. Add at end, "Provided, that elections under this section shall not occur oftener than once in five years."

Acts 1887, p. 39.

516. Railroad property taxable by a county. The county may tax all property in it which is not used in the ordinary business of the road.

Acts 1882–3, p. 41.

534. Maimed soldiers may peddle without license. Restricted to maimed Confederate soldiers by inserting the word "Confederate" after the word "disabled" in each place where it occurs. Also after "county or counties" insert "towns or cities."

549.84-15 Acts 1882–3, p. 64.

553. Report of County Treasurer. He must report not less than twice in each year to the Ordinary or the Grand Jury who may compel such account.

Acts 1882–3, p. 82.

579. (just after). *Provision in case the County Surveyor is disqualified from interest.* In such case it is the duty of the Judge of the Superior Court or of the Ordinary of the county where the land lies, to appoint a competent and disinterested Surveyor to act. The County Surveyor of an adjoining county may be appointed. If the Surveyor appointed is not a County Surveyor, he must take the oath required of such officer. The powers, duties, and the effect of the return of the Surveyor so appointed are the same as those of the County Surveyor.

Acts 1882-3, p. 104.

588. (a). *Service where Sheriff is sick or a party and has no deputy.* May be made by any constable or bailiff.

616-1/50-1-563 (2) b. 1. 2.
Addenda, p. v; B. R. No. 62.

621. *Apportionment of public roads.* *Commissioners may parcel off portions of road to applicants.* Instead of "shall," put "may in their discretion"; and at the end add: "Provided, that said hands accepting such apportionment shall be amenable and subject to the direction and control of said Road Commissioners, and subject to the same fines or imprisonment in common with the other road hands, the same as though they had not accepted such apportionment of road."

26-1/51-1/46 Acts 1884-5, p. 55.

653. *Commissioners of Public Roads.* The extensive enactments on this subject, found in Acts 1882-3, p. 140-145, are *repealed*.

Acts 1884-5, p. 116.

Money in hands of treasurers of boards of Road Commissioners and Superintendents of Roads must be turned over to the County Treasurer, whose duty it is to demand it. Upon failure so to pay over, the Ordinary is to enforce the payment by suit on the bonds of the Road Commissioners. Out of the fund paid over without suit, any amounts due on salaries of Commissioners or Superintendent is to be paid by order of the Ordinary drawn upon the County Treasurer. As to the balance, the Ordinary must apportion it to the several road districts from which the fund came according to the amount collected from each district, to be expended in work upon the roads.

Acts 1884-5, p. 65.

For the better enforcement of the Road laws, it is provided that any citizen may, by petition in writing to the Ordinary, Judge of the County Court, or Board of Commissioners of Roads and Revenue (according to which may have the appointment of Commissioners) complain of any neglect of duty by any commissioner. Written summons must be served on the commissioners charged with neglect, by the Sheriff or his deputy, at least twenty days before the day of hearing. The punishment is a *fine of not less than ten nor more than two hundred dollars*, and *removal from office*. If the commissioners summoned fail to appear, the fine may still be imposed *ex parte*. The tribunal trying the case may, upon the hearing, impose an alternative punishment of *imprisonment* in the county jail for not more than *ten days*.

Acts 1884-5, p. 136.

658. *Powers and Duties of Road Commissioners.* They may, in their court, punish for contempt by fine, not over five dollars, or imprisonment, not over five hours.

Acts 1882-3, p. 79.

661. *Proceedings against Commissioners for neglect of duty.* When convicted, the least fine that can be imposed is now ten, instead of fifty, dollars.

671-1/89-4.1 #643-1/89-4.1
Acts 1884-5, p. 41. (See also, 653).

693. [a]. *Repair of Turnpike.* "It is unlawful for any owner or owners of any turnpike road, or keeper of any toll-gate upon any turnpike road in this State to demand or collect toll from any person traveling over such road when it is not kept repaired, so as to comply with the terms of its charter. Any person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined or imprisoned, or both, in the discretion of the court—the fine not to exceed one hundred dollars, and imprisonment not to exceed fifty days."

Acts 1882-3, p. 134.

704. [a]. *Telegraph Companies. Duties as to transmission of dispatches.* "Every electric telegraph company, with a line of wires wholly or partly in this State, and engaged in telegraphing for the public, shall, during the usual office hours, receive dispatches, whether from other telegraphic lines or from individuals; and on payment or tender of the usual charge, according to the regulations of such company, shall transmit and deliver the same with impartiality and good faith, and due diligence, under the penalty of one hundred dollars, which penalty may be recovered by a suit in a justice or other court having jurisdiction thereof, by either the sender of the dispatch, or the person to whom sent or directed, whichever may first sue; *Provided*, that nothing herein shall be construed as impairing or in any way modifying the right of any person to recover damages for any breach of contract or duty by any telegraph company, and said penalty and said damages may, if the party so elect, be recovered in the same suit. Such companies shall deliver all dispatches to the persons to whom the same are addressed, or to their agents, on payment of any charges due for the same: *Provided*, such persons or agents reside within one mile of the telegraphic station, or within the city or town in which such station is. In all cases the liability of said company for messages in cipher, in whole or in part, shall be the same as though the same were not in cipher."

Acts 1887, p. 111.

705. *Railroad Regulations. Crossings.* All trains must stop within fifty feet of the place where two railroads cross. See 1689 (p).

Acts 1882-3, p. 137.

719. (f). *Schedule of rates (on railroads).* Need be published only once instead of "for four successive weeks" in the papers designated. Hence, change "four successive weeks" into "one time."

719(1)/720-1-1/2

Line 18. As to *advertising rate* to be paid, after "State" insert: "At a rate not to exceed fifty cents per square of usual advertising space when less than a column is occupied, or more than twelve dollars per column when as much space or more is occupied by inserting said schedule or change of any schedule, so that said newspaper shall not charge for such advertising any rate in excess of that allowed for county legal advertising."

Line 26. After "publication" insert: "Provided, that when any rate or change is made by the Commissioners that affects only one road or roads in a particular locality, the insertion need only be made in the paper published in one of the cities named nearest where the change is made."

Acts 1882-3, p. 133.

Bulletin of Late Trains.—"Whenever any passenger train on any railroad in this State shall be more than one-half of one hour behind its schedule time, when it passes a depot at which there is a telegraph operator, and during the hours that said operator is required to be on duty, it shall be the duty of such railroad company to keep posted at every succeeding telegraph station along its line the time such train is behind its schedule; *Provided*, that such bulletin shall not be required to be posted at any station until one-half hour before the regular schedule time at which such train is to arrive at the station at which such bulletin is required to be kept. For every wilful violation of the requirements of this act the said railroad company shall be liable to pay to the State of Georgia twenty dollars, which may be collected by suit in any court of competent jurisdiction."

Acts 1884-5, p. 119.

719. (q). Second railroad obliged to receive and transmit freight tendered by another. "All railroad companies in this State shall, at the terminus or any intermediate point, be required to receive from the connecting road having the same gauge when offered, all cars containing goods or freights consigned to any point on the road to which the same is offered, and to transport the said cars to their destination with reasonable diligence, and any failure or refusal of any connecting railroad company to comply with this requirement shall give to the consignee, shipper or owner of said goods and freight a right of action against the company so refusing, and the damages received in such action shall not be less than ten per cent. nor more than twenty-five per cent. of the value of the goods so refused to be received."

Acts 1882-3, p. 145.

719. (aa). Legal Grade of Turnpikes. Maximum grade is one foot in fifteen. Any person collecting toll in violation of the act is punishable as prescribed in Section 4310 of the Code. Companies, whose charters, granted before the act, allow a steeper grade, were given six months to conform to the legal grade, and on failure to do so in that time, were subjected to additional penalty of forfeiture of the charter.

Acts 1884-5, p. 125.

719. (bb). Fines for neglect to repair turnpikes. Disposition of. Instead of: "expended under the supervision and direction of the Commissioners instituting such suit, in improvements and betterments upon the road complained of," put: "paid over to the County School Commissioner, for school purposes, and paid out by him as part of the common school fund."

Acts 1882-3, p. 83.

735. [a]. Tramways for transportation of lumber, etc. "Any person or corporation desiring to build or construct any tramways to connect with any water-way or railway in this State, for the purpose of transporting lumber, naval stores and timber by means of the same, may make application in writing to the Ordinary or County Commissioners of the county in which such tramway is to be located, setting out the length of such way, together with the place of starting and the terminus of the same, and the line of its location as near as may be. When the application aforesaid is filed in the office of the Ordinary, as aforesaid, or County Commissioners, as the case may be, all the proceedings thereafter shall be the same as are now allowed and directed by the laws of this State in cases of establishing and laying out private ways, except that the strip of land to be used for such purpose shall not exceed in width fifteen feet. If such tramway so laid out shall at any time cease to be used for such purposes, then the land so employed for such way shall in its use revert to the owner thereof."

Acts 1887, p. 103.

742. Mining. Here may be noted the *Act to encourage the search for phosphate deposits* in public streams and on public lands, which gives the finder the right to mine.

Acts 1884-5, p. 125.

742-743. Right-of-way for miners. These sections, providing mode whereby miners may obtain right-of-way are *repealed*, and the following substituted: "Any person, or corporation, who may hereafter be actually engaged in the business of mining iron, copper, gold, coal, or any other metal or mineral, in quarrying marble, granite or any other stone, or in making copperas, sulphur, alum, or other similar articles, and may need for the successful prosecution of such business a right-of-way for a railroad, turnpike or common road, across the lands of others, such right-of-way may be obtained in the same manner that the right to convey water across the lands of others may be acquired by the owner of mines as provided by sections 746 to 751, inclusive, of the Code of Georgia. The arbitrators selected, as provided by the sections of the Code above referred to, shall decide both as to the necessity for the right-of-way sought to be condemned and the compensation to be paid to the land owner therefor."

Acts 1887, p. 35.

775. Incorporation of towns and villages. When the territory lies in more counties than one the Superior Court of either county may grant the charter.

Acts 1882-3, p. 111.

786. *Municipal taxes for streets, sewers, etc.* Payment is enforced by execution issued by the Treasurer and levied by the Marshal on the real estate of the delinquent, which may be sold in the manner and subject to the regulations prescribed in the act of February 27, 1877 (§§ 3656 (a)-(f) of Code).

Acts 1884-5, p. 148. 792, 190-1 = f. 66.

797. (c), note. *Incorporation of Towns.* The provisions of the Act of August 26, 1872, (code §§ 775-797), are extended to towns and villages established before Feb. 28, 1872, so far as consistent with their charter. B. R. No. 6.

809. *Specific Taxes. Exemptions.* Crippled and disabled Confederate soldiers are exempt from poll-tax.

Acts 1882-3, p. 120.

809. (b). *Liquor dealers shall register their names with the Ordinary.* Instead of: "From and after the first day of April, 1882," put "from and after the first day of January, 1884, and annually thereafter." Acts 1882-3, p. 55.

809. (h), line 5. *Liability of Tax Collector who fails to inform.* Erase comma after "tax collector;" put it after "solicitor-general." B. R. No. 108.

816. *Tax on Railroads and other corporations.* Prior law saved by Act of Feb. 19, 1876. B. R. No. 51.

All property of any railroad, not used in its ordinary business, is taxable by counties and towns in which such property is located.

Acts 1882-3, p. 41.

819. *Tax on railroads partly in this State and partly in another.* Such railroads are liable to have their rolling stock and other personal property taxed in the proportion that the part of the road in this State bears to the whole length of the road.

Acts 1882-3, p. 42.

826. (a). *Presidents' of railroads returns.* Presidents are required to make return to municipal and county authorities of such property as is taxable by them.

Acts 1882-3, p. 41.

826. (c2). *Tax on railroads and returns to be made by them.* All railroads to be taxed as provided by the Act of Feb. 28, 1874 (Code, § 826, (a)-(c)). Should any company resist payment of the *ad valorem* tax, in addition to the usual return, return must be made of the gross income and net income of such company to the Comptroller-General, and such company shall pay the highest tax in accord with the charter.

Addenda, p. III; B. R. No. 29.

826. (c3). *Refusal of railroad to pay tax.* The Attorney-General, upon the Governor's direction, must examine the charter with reference to its being forfeited, and the result must be reported to the General Assembly.

Addenda, p. VI; B. R. No. 66.

826. (d). *Form of the tax return* may be seen in
Acts 1884-5, p. 29; Acts 1886, p. 24.

834. (a). *Tax-payers' Oath, etc.*
Addenda, p. viii; B. R. No. 107.

874. (a), (b), (c). *Taxation and return of Wild Lands.*
Sections 2, 4 and 5 of the Act of 1874, which is here codified, should
probably not be omitted.
Acts 1874, p. 105-7; B. R. No. 12.

874. (b), line 3. *Taxation and return of Wild Lands.* Instead of "receiver
of tax returns," put "tax collector."
Acts 1882-3, p. 47.

The receiver of tax returns is required to notify non-residents or
their agents of the receipt of their returns immediately upon such
receipt. And the tax collectors, as soon as the digests are turned
over to them and the rate of tax levied, are required to notify non-
residents or their agents of the amount of tax due by them. Any
tax collector causing injury, by failure to do this, is liable therefor on
his bond. Notice by mail is sufficient. The receiver and collector
are entitled to reimbursement for postage expenses, on a sworn
account, properly audited.

Acts 1882-3, p. 43.

886. *Alias Execution for Taxes; when and how issued.* When the orig-
inal execution has been lost or destroyed, an *alias* may issue, upon
the party having the right to control the original execution filing
with the Ordinary a sworn statement of the loss or destruction of the
original. The word "*alias*" must be endorsed on the copy. The
alias so issued has all the legal force and effect of the original.

Acts 1882-3, p. 108. / 89-153.

888. *Levy of Tax Fi. Fas.* Sheriffs and their deputies may levy and
collect tax *fi. fas.* for any amount. B. R. No. 32.

888. foot note. *Officer's cost for collecting Tax Fi. Fa.* In the note the
word "fee" is used for "cost."
B. R. No. 116.

891. (a). *Transferee of Tax Fi. Fa. entitled to interest.* "All *fi. fas.* trans-
ferred to third parties, shall bear interest, at the lawful rate, from
date of transfer, provided the same have been recorded as prescribed
by law."

Acts 1887, p. 21.

891. [b]. *Limitations on Tax Fi. Fas.* All State, county, city or other tax
fi. fas., before or after legal transfer and record, shall be enforced
within seven years from the date of their issue, or within seven years
from the time of the last entry upon the tax *fi. fa.* by the officer au-
thorized to execute and return the same, if said entry is properly
entered by said officer upon the execution docket and books in which
said entries are now required to be made in cases of entries or [of]

910/89-15-2

executions issued on judgments. All laws in reference to a period of limitation as to ordinary executions for any purpose, or to the length of time or circumstances under which they lose their lien in whole or in part be and the same are hereby made applicable to tax *fi. fas.*

Acts 1887, p. 23.

920. *Duties of Tax Receiver.* He must furnish each tax-payer a list embracing items specified. *57-1-p 66-184-p 3-3*
Acts 1884-5, p. 29; Acts 1886, p. 24.

934. *Collector's duties.* He must account at least twice a year to the [Ordinary] whose duty it is to compel such account if need be. [The act says: "Officer or officers in the several counties of this State, who by law are authorized to bring defaulting Tax Collectors and Treasurers to a settlement of their accounts with the county," which in the absence of local legislation, is the Ordinary.] He must also keep a record of delinquents. *57-1-p 1-1*

Acts 1884-5, p. 28.

Duties further prescribed.

Acts 1884-5, p. 66.

943. (a)-(g). *State Depositories.* The act provides for the renewal and change of appointments by the Governor; requires the Treasurer to keep advised and to advise the Governor of the financial condition of the depositories and their sureties, and authorizes the Governor to require additional security at any time, and to substitute one surety for another with the consent of all parties. *57-1-p 5-4-57-1-p 5-7*
Acts 1882-3, p. 138/57-1-p 3-4 57-1-p 5-2-p 5-4

1011. [a]. *Management of Railroads which may come into the hands of the State as endorsee of railroad bonds.*

Acts 1875, p. 14; B. R. No. 14.

1040. (d). *Public Printing.* In next to last line of this section, omit "to the quire." B. R. No. 72.

1040. (c). *Public Printing. Rejection of bids, etc.* Add at end of section: "Said commissioners shall have power to reject any and all bids, and relet the same, whenever they shall deem it to the public interest to do so, and when itemized accounts are rendered by the Public Printer, said commissioners may examine experts as to the value of all material furnished, and cost of work charged for under this Act, and said commissioners shall have full power to reject any item of account which may appear to them, from such expert testimony or otherwise, to be in excess of said Public Printer's contract or contrary thereto."

Acts 1887, p. 98.

1040. (g). *Duties and pay of Public Printer.*
Addenda, p. v; B. R. No. 51 a.

1046. *Distribution of Journals of the Legislature.* Only four hundred copies to each House to be printed. It is the State Librarian's duty to ship one copy of each Journal to each member of the General

Assembly, the rest to be kept in the State library, of which twenty-five copies shall be neatly bound.

Acts 1884-5, p. 134.

1103, (a)-(qq). *Organization, Government and Discipline of the Volunteer Troops of the State.* (This Act is too long and detailed to be reproduced here, especially as it will not be of frequent use in practice. A few provisions which are of comparatively general import are noted). In cases of invasion, riot, etc., the troops may be ordered out by the Governor to resist and quell the same. The provisions touching riots, their suppression, the penalties therefor, etc., are very precise and extensive.

The members of volunteer forces are given some privileges: (1). Privilege from *arrest* in all cases except treason, felony or breach of the peace, during "attendance at drills, parades, meetings, encampments and the election of officers, and during their performance of any public duty as such members, and in going to and returning from the same." (2). Exemption from road duty and street tax. Every active member is so exempt. And after ten years continuous service as such, he is exempt from road duty and street tax, so long as he remains on the rolls of the company or battalion. Each company may have on its rolls fifteen "special pay members" who, on paying twenty-five dollars per annum, each, to the company, shall be exempt from jury duty, road duty and street tax. ~~1884-5 p. 127 (c) #192-1-1067 (i)~~

Acts 1884-5, p. 74-88.^{100-1-1067 (i)}

Amended, allowing increase in the number of companies. Acts '87, p. 85.

Artillery Surgeon. A surgeon, with rank of first lieutenant, may be attached to each light battery of artillery.

Acts 1887, p. 84.

1103, (h). *Names and designation of companies.*

Line 12. Instead of "hereinafter," put "hereafter." B. R. No. 88.

1104. *The Militia.* Change in the phraseology of the section.

Line 3. After "duty," insert: "including the volunteer organization."

Last line. Erase, "or belonging to some volunteer organization."

Acts 1884-5, p. 62.

1215. *Academy for the Blina.* What pupils are admitted.

Line 3. After "years," insert: "Who shall have given satisfactory evidence of having been a resident of this State for at least two years prior to his or her application."

Acts 1882-3, p. 61.

1229. *Academy for the Deaf and Dumb. The Principal.*

Line 3. After "institution," insert: "and shall be the immediate executive head of the institution." B. R. No. 57.

1235. (a). *Same: The Treasurer.* Must give bond in the sum of \$3,000. B. R. No. 49.

1235. (d). *Same: Age at which persons are admitted.*

Line 2. Instead of "ten," put "eight," so as to read: "between the ages of eight and twenty-seven years." B. R. No. 56.

1242. *Common School Laws—amended, revised and consolidated.*

[These extensive provisions are not thought to be of such general use to the practitioner as to require reproduction here.]

Acts 1887, p. 68-83. / 47-13 45 4/10-1-1

1249, par. 3. *State School Commissioner. Duty as to apportionment of School Revenue.* The census provided for by Act of September 28, 1883, is to be used in making such apportionment.

Acts 1882-3, p. 84.

1250. *School Census provided for, and existing laws suspended.*

Acts 1882-3, p. 84.

1261. *Teachers in the Public Schools.* May contract to teach a private elementary school in connection with the public school.

Acts 1882-3, p. 86.

1263. *Duties of County School Commissioner.* He must make the new enumeration prescribed. The part of the section which requires the enumeration to be taken "in the year 1874, and at the expiration of every four years thereafter," is expressly repealed.

Acts 1882-3, p. 84.

Line 16. Omit "made in accordance with said apportionment."

Foot-note, p. 267 of Code; B. R. No. 44.

1273. *Manual Labor Instruction.* In those public schools in counties or towns "having a system of public schools supported by local taxation, not restricted to the education of children in the elementary branches of English education only," the "Board of Education or other constituted authorities having charge," may annex a department of industrial education.

Acts 1884-5, p. 72.

1278. *Sometimes Electors may vote elsewhere than in the county of their residence.* This they can no longer do, since the section is repealed.

Acts 1882-3, p. 46. / 312-149-4

1317. *Pay and mileage of Presidential Electors, and pay of Secretary of Electoral College.*

line 2. Instead of "eight dollars per day for every day," put "fifty dollars each for the whole time." The mileage is "ten cents for each mile traveled by the nearest practicable 'route' in going to and returning from the capital."

line 6. As to pay of Secretary, instead of "one hundred dollars," put "eight dollars per day for every day required in attending the Electoral College as Secretary thereof."

Acts 1882-3, p. 54.

1333. *Contests in elections of constables.* The section now must read: In all elections for constables, corporation officers, or other officers not pro-

vided for above, where there is a contest the testimony shall be taken as is prescribed in section 1329 of this Code, and be submitted to the judge of the superior court of the circuit in which the county where the contested election was held is located (if such judge is absent from his circuit, or from any cause is disqualified from hearing said contest, the said testimony may be submitted to any other judge of the superior court in this State), who shall decide said contest within twenty days after the same is submitted."

Acts 1882-3, p. 53.

1341. *Lunatic Asylum.* Enlarged. B. R. No. 67. /87-*b* 5-8-9

1344. (a). *Lunatic Asylum. Discharge of harmless lunatics.*

Line 3. Instead of "officer," put "officers."

Line 4. Instead of "a," put "or." B. R. No. 8.

Line 4. Instead of to the "care of friends and relatives," he or she is to be remanded to the "county authorities, whose duty it is made by law to provide for the paupers of the county from which he or she is sent."

1344-*b* /85-*b* 5-*Act 1-1853-b 30-1* Acts 1884-5, p. 61.

1344. (b)-(e). *Regulations of Lunatic Asylum.*

Addenda, p. v, vi; B. R. No. 64.

1347. *Lunatic Asylum. Bond of the Treasurer.* Must be in the sum of "twenty" (instead of "ten") thousand dollars.

Acts 1882-3, p. 68.

1352. (a). *Same. Superintendent may use his discretion in rejecting harmless idiots.*

1362-*b* /85-*b* 5-*Act 1-1853-b 30-1* Addenda, p. viii; B. R. No. 100.

1374. (a). *Same. Restriction of sale of liquors in vicinity.*

Addenda, p. iii.; B. R. No. 9.

1377. *Quarantine jurisdiction of Brunswick and of St. Mary's.* That of Brunswick extends to all ships or vessels which shall enter any port or inlet from Altamaha sound to St. Andrew's sound; that of St. Mary's, likewise, from Cumberland sound to St. Mary's river.

Acts 1884-5, p. 46.

1409. *What Druggists exempt from obtaining license.* Those who were engaged in business "prior to the 24th of December, 1847, and who were so engaged on the first day of January, 1863; and merchants or shop-keepers may deal in medicines already prepared, if patented, or, if not patented, are legally warranted by a licensed druggist."

This section, though not appearing in the Code, is thought not to have been repealed. *Act 1-1852-b 30-1*

Code of 1873, §1409; B. R. No. 138; Code of 1882, p. 1483, Sec. viii.

Board of Pharmaceutic Examiners.

Code of 1882, p. 1482; B. R. No. 138.

This Act is amended in section V, by requiring the board to grant license also "to physicians who were practicing medicine prior to the

first of January, 1847, who shall produce satisfactory evidence that they were so practicing."

Acts 1882-3, p. 146.

1409. (a). *Who may practice medicine.* Insert in line 4, after "University," the words: "or has, after attending one or more full terms at a regularly chartered medical college, been in active practice of medicine since the year 1866, or who were by law authorized to practice medicine in 1866."

Acts 1882-3, p. 68.

By the Act of September 28, 1883, it was made the duty of the judges of the Superior courts to give specially in charge to the grand juries the provisions of section 1409, regulating the practice of medicine, for the two years next ensuing after the passage of the Act.

Acts 1882-3, p. 51.

1410. *Who may practice dentistry.*

Lines 3, 4, 5. Erase: "has graduated and received a diploma from the faculty of a dental college, chartered under the authority of some one of the United States or foreign governments, or." Such qualification no longer entitles one to practice.

Acts 1884-5, p. 64.

1412. *Dentistry. Duty of the Board of Examiners.*

Line 6. Erase: "to grant a license to any applicant who shall furnish satisfactory evidence of having graduated and received a diploma from any incorporated dental college, without fee, charge or examination; fourthly—."

Line 9. Erase "other."

Line 10. Change "fifthly" to "fourthly."

Acts 1884-5, p. 64.

1416. *Penalty for illegal practice of dentistry.*

Line 9. Instead of "have been," put "were." B. R. No. 80.

1419. *License to retail liquors—how obtained.* The first sentence of this section has been changed to read as follows: "Persons, before obtaining license to retail spirituous liquors or sell the same in any quantity less than one gallon, must apply to the Ordinary of the county, or to the County Commissioners of the county, where such courts exist, in which they desire to retail or sell in any quantity less than one gallon, who have power to grant or refuse such application. Before any license shall be granted, the applicant shall present to the Ordinary the written consent of ten of the nearest bona fide residents, five of whom shall be freeholders owning land, irrespective of county lines, nearest to the place of business where such spirituous liquors are to be sold; provided that this Act [i. e., the amendment beginning with the words: 'Before any license,' etc.,] shall not apply to incorporated towns or cities."

Acts 1884-5, p. 42; do. p. 59.

1431. *Sale of estrays.* So much of this section as relates to advertising belongs in sense with §1429, its prescribed place being §1430. B. R. Nos. 16, 52.

Sale of estrays valued at or under twenty dollars. In such cases the

proceedings are had before a *Justice of the Peace* of the district where taken up. The sale is made by the Constable of the district upon the freehold where taken up, after ten days' notice at the door of the county courthouse and at the place for holding Justice's court, Justice's fee is fifty cents. 1447-1467-1482/89-p 36

144) 1911-1963. *Acts 1884-5*, p. 146.

1444. (a). *Wire fences, when lawful.* The lawful wire fence is described with such pointed precision as to discourage its use.
Acts 1882-3, p. 139.

Acts 1882-3, p. 139.

1453. Penalty for breaking a pound the same as for illegal impounding.

Line 9. After "animals," insert: "or if any person shall break a pound and release any animal which has been legally impounded or estrayed, without having first paid all damages that may have been incurred."

Line 15. After "animals," insert: "or pounds."

1454 / Acts 1882-3, p. 51.

1455. *Fence law. Fence or no fence elections.* Expenses of advertising and of posting notices are to be paid out of the county treasury, and a sufficient sum for that purpose must be deposited with the Ordinary before he is bound to act. *1596 64*

Acts 1882-3 p. 129

Such elections, instead of being held "at such time as said Ordinary shall appoint," must be "on the first Wednesday in July following." And, "provided, further, that said election shall not be held oftener than one time in every year."

Acts 1882-3 p. 49

1455. (e). *Fence Law.* Gates may be erected across a highway where it passes from a "no fence" county or district into a fence county or district. Such gates must be self-latching, opening each way, kept in repair and have hitching-posts on each side. To leave such gates open is a misdemeanor, punishable as in section 4310.

It is a misdemeanor,
Acts 1884-5, p. 128.

1465. *Duties of the Commissioner of Agriculture.* The part of this section relating to a geological survey, is not of force. B. R. Remark D.

It is his duty to look after the fish, appoint the fish-wardens, etc. See 1465 (k). 1465 (b) - 62 (a)

1465, (k)-(p). *Fish, Minerals and Maps.*

1504. *General Pilotage Law.* (Too long and of insufficient general interest to warrant reproduction here).

Acts 1886, p. 38-42.

1535. *Who may be certified as a pilot.* The first part of this section is changed to read: "No person shall receive a certificate to act as pilot until he shall have served as an apprentice two full years in a decked

pilot boat on the bar for which he seeks to be a pilot, (the crew not to be considered as apprentices, unless so registered in the office of the commissioner of pilotage), and have given satisfactory evidence of character and skill."

Acts 1882-3, p. 70.

1553. (a). Analysis of Fertilizers or Chemicals on each package.

Line 5. Instead of "true analysis," put "manufacturer's guaranteed analysis." Addenda, p. x. 189-*b* 67

Line 7. After "fertilizer," insert: "or chemical." B. R. No. 58.

Line 9. For all that follows line 8, substitute:

“Moisture at 212° Fah.

Available Phosphoric Acid.

Insoluble Phosphoric Acid.

Ammonia, Actual and Potential.

Potash K. O."

Addenda, p. x; B. R. No. 129.

1553. (i). *Fertilizer Formulas.* The sale of formulas for composting fertilizers, unless approved by the Commissioner of Agriculture, is a misdemeanor, punishable as in section 4310.

Acts 1882-3, p. 118.

1567. [a]. *Inspection and sale of Naval stores, (tar, pitch, rosin and turpentine). Duties of inspector.*

15-88. d: act 1887 b: 81
Acts 1887, p. 110,

1593. *Sale of certain articles. When title passes.* This section is changed to read: "Cotton, corn, rice, crude turpentine, spirits turpentine, rosin, pitch, tar, or other products sold by planters and commission merchants on cash sale, shall not be considered the property of the buyer, or the ownership given up until the same shall be fully paid for, although it may have been delivered into the possession of the buyer; provided, that in cases where the whole or any part of the property has been delivered into the possession of the buyer, the right of the seller to collect the purchase money shall not be affected by its subsequent loss or destruction." 1593/162-668

Acts 1884-5, p. 52.

1621. (a)-(c). *Oysters*. Addenda, p. iv, v; B. R. No. 37.

1621. [d]. *Terrapins. Capture, etc., regulated.*

Acts 1887, p. 99.

1632. *License to peddle.* 'No license required to peddle jugs, flower-pots, etc.'

Add at end: "Nor to persons engaged in the manufacture and selling of jugs, flower-pots, etc., within the State of Georgia."

Acts 1887, p. 33.

1640. Last line. *Salary of the State Librarian.* Instead of \$1,200, it is now \$1,500.

Acts 1882-3, p. 123.

1672. (a). Tax by municipal corporation. All property of a railroad which is not used in the ordinary business of the railroad, is taxable.

Acts 1882-3, p. 41.

1672. (g). Judge of City Court disqualified for other city office.

Addenda, p. vii; B. R. No. 90.

1676. par. 1. What corporations may be created by the Superior Courts.

Any except banking, insurance, railroad, canal, navigation, express and telegraph companies. But the Act providing separately for the incorporation of schools, academies, colleges and churches, and repealing section 1677, is expressly saved. /89-p103 #/90-1 - p 70

Addenda, p. viii; B. R. No. 98.

Shell road, plank road and turnpike companies may be incorporated by the Superior Courts. The manner of obtaining charter, right-of-way, etc., is fully prescribed.

Acts 1882-3, p. 113.

1676. (a). Incorporation of Schools, Academies, Colleges and Churches. This section supersedes §1677. (B. R. No. 40).

Line 2. Instead of "five," "one or more" persons may obtain charter.

Line 9. After "to such," insert "person or."

Acts 1884-5, p. 58.

1676. (b). Incorporation of Literary Societies, etc.

Line 4. Instead of being incorporated under the provisions of "this Code," put "the next preceding section."

B. R. No. 96.

1676. [c]. Manufacturing and Mining companies incorporated as Savings Banks. Any manufacturing or mining company of this State with

property of twenty-five thousand dollars above the secured debts may be so incorporated. The mode of proceeding to obtain and the form of the certificate (charter) issued by the Secretary of State, may be seen by reference to the Act. Such certificate authorizes the company to do a savings, and not a general bank business. The company must take on deposit any sum from ten cents to one thousand dollars. No person may have more than one thousand dollars on deposit, except the excess due to accrual of interest. Married women and minors may deposit in such bank and check out without the control of any husband, parent, guardian or trustee. Except liens existing at the time the certificate was issued and liens for taxes, every depositor has a first lien on all real estate, machinery and improvements of the company owned at the date of its petition, and upon all additions thereto, and upon all insurance money received in case of fire which is not invested in property subject to the lien. The rate of interest paid on deposits may vary from four to eight per cent. No interest, except by special contract, is to be paid on deposits left for less than three months. All depositors shall be paid the same rate, and on the first of each January and July, interest due is to be credited and bear interest. The rate may be changed as often as every six months by written notice posted in the savings bank office. Such companies may make rules, by-laws, etc.,

governing the savings bank business. The total of deposits may not exceed the value of the company's property above its secured debts. So far as applicable the provisions of the general banking law are extended to savings banks under this Act. As to deposits, the statute of limitations will not apply until demand made by check or in writing. Unclaimed sums are subject to be disposed of by law.

Acts 1887, p. 91.

1677. *Educational and Religious Corporations. Where incorporated.* This section is thought not to be of force, but to be superseded by §1676 (a).
B. R. No. 40.

1677. [a]. *Special terms of Superior Courts for granting charters.* "The Judges of the Superior Courts of this State are hereby authorized in their discretion to call and hold special terms of said courts for the purpose of granting charters to corporations under the same rules, regulations and restrictions now required by law for the grant of charters."

Acts 1887, p. 57.

1679. (a)-(e). *Bonds of Corporations. Record by Secretary of State.* All public and private corporations must have a record made by the Secretary of State of every issue or indorsement of bonds for circulation. The circulation of unrecorded bonds is forbidden under penalty of \$500 fine for each bond.

Addenda, p. iv; B. R. No. 30.

1689. (a), et seq. *Incorporation of Railroads.* Before reading these sections, see note, p. 384 of Code. B. R. No. 133.

1689. (a). *Same. What notice required.*

Line 2. Instead of "ninety" days, "at least thirty" will do.

Lines 3-10. Erase all from "in" (line 3) through "use" (line 10) and substitute [notice must be] "as required by the sixteenth paragraph of the seventh section of the third article of the Constitution of this State, and of their intention to apply for a charter, and the objects and purposes of the same, which notice shall be published in every county through which said railroad is to be constructed, by one insertion in the newspaper where the Sheriff's advertisements for the respective counties are published, and by posting at the Courthouse door of the several counties for thirty days." /z 7-13!

Acts 1882-3, p. 135.

Line 18. After "the," insert "directors of the."

Line 39. Instead of "having," put "have."

B. R. No. 133.

1689. (i). *Powers of a railroad corporation.*

Line 44. A railroad may run over another railroad's right-of-way, when necessary or proper to reach its freight depot, or the general, or union, or passenger depot."

Line 48. After "maintain," insert "all."

B. R. No. 133.

1689. (l). *Right-of-way. How obtained.* On p. 378, line 2 from the bottom, instead of "in," put "at." B. R. No. 133.

1689. (p). *How trains shall be run at crossings.* "Whenever the tracks of separate and independent railroads cross each other in this State, all engine drivers and conductors must cause the trains which they respectively drive and conduct to come to a full stop within fifty feet of the crossing, and then to move forward slowly. The train of the road first constructed and put in operation shall have the privilege of crossing first."

Acts of 1882-3, p. 137.

1689. (y). *Power of railroad corporations to establish sinking fund by issue Line 5. of preferred or other stock.* After "organization," insert provided that such corporations, their successors or assigns, shall have the privilege of amending said certificate of organization by filing with the Secretary of State a new certificate in accordance with the provisions found in section 1689, (v), of this code; *provided, further,* [that such additional certificate or certificates shall only be filed, and shall only operate as a new certificate of incorporation and organization upon the assent of a two-thirds majority of the stockholders represented at an annual or called meeting of stockholders], that in case the capital of any company formed under this section is found insufficient for constructing and operating its roads, such company may, with the concurrence of two-thirds in amount of all its stockholders, increase its capital stock from time to time to any amount required for the purpose aforesaid; such increase must have the sanction in person, or by proxy, of two-thirds in amount of all the stockholders of the company at an annual meeting, or a meeting of such stockholders called by the directors of the company for that purpose, by a notice in writing to each stockholder to be served on him personally, or by depositing the same, properly folded and directed, postage paid, to him, at the post-office nearest his usual place of residence, in the post-office at least twenty days prior to such meeting, and its object, and the amount to which it is proposed to increase the capital stock, and the proceedings of such meeting must be entered on the record of such company, and thereupon the capital stock of the company may be increased to the amount sanctioned by such two-thirds vote in amount of all the stockholders of the company as aforesaid; *provided,* that in cases where the stock provided for in the original certificate has not been issued and sold, or is in the hands of such railroad company, the purchasers of such railroad or their assigns, are hereby authorized to make such increase to the capital stock by filing a new certificate declaring the amount of said increase and the purpose for which said increase is made; *provided, further,* that said increase in stock shall not in any event exceed a total issue of stock for each mile of road of more than \$30,000 per mile."

Acts 1882-3, p. 116.

The above is *amended* in so far as to require to be published *once*, with the Acts of Assembly, all papers which may be filed in the office of the Secretary of State under the provisions of the Acts of Febru-

ary 29, 1876, September 27, 1881, and October 1, 1883, [i. e., §§ 1689, (a)–(vv) of the Code, and the Act just quoted].
Acts 1884–5, p. 132.

1689. (ee). *Railroads. Rights of former purchasers.*
Line 5. Instead of "assigns," put "assignees."
Line 8. Instead of "decreed," put "deemed."
B. R. No. 130.

1689. (nn). [This section, in 1884, got a hybrid excrescence, which was lopped off by the last legislature. See Acts 1884–5, p. 40; Acts 1887, p. 31].

1689. (ww). *Railroads. Must file copy of charter, etc., with Secretary of State.* "It is the duty of the Governor to notify by proclamation to be published in the public gazettes of this State as other proclamations are published, all railroad companies, both steam and horse-car, doing business in this State at this time, or that may hereafter commence the operation of any railroad in this State, to file with the Secretary of State a true and complete copy of the charter, and all amendments thereto, under which they are doing business, and also the names of the then president, vice-president, secretary and treasurer of their corporation, within twenty days after such notification. In the event any railroad shall fail or refuse to comply with the provisions of this Act, it shall be the duty of the Comptroller-General to issue execution forthwith against the property of such delinquent corporation for the sum of \$500 as a penalty for such failure or refusal, and for every twenty days after the first twenty, execution in the sum aforesaid shall likewise issue until the provisions of this Act are fully complied with." (Approved Oct. 1, 1883).

1761. *Husband sole heir of wife. No guardian for minor husband or wife.* "Whenever the husband or widow of a deceased person shall be under the age of twenty-one years and entitled to a share in the estate of such deceased husband or wife, he or she shall be entitled to take and hold such share without the intervention of a guardian or other trustee." (Approved Oct. 1, 1883.)
Acts 1882–3, p. 148.

1762. *Wife sole heir.* Upon the death of the husband, without lineal descendants, the wife is his sole heir, and upon the payment of his debts, if any, may take possession of his estate without administration, sue for and recover the same.
Acts 1882–3, p. 47.

If wife be under twenty-one years of age, no guardian is necessary.
See 1761.

1763. *Dower in lands partly paid for.* "Dower may be assigned in lands held under deed, bond for titles or other instrument in writing having like effect, where a portion of the purchase money has been paid, but the estate in dower shall be liable for the unpaid purchase money where the vendee held under bond for titles, or other instrument hav-

1764/75-12-1

2

ing the same effect, or under deed where contemporaneously with the execution of the deed the vendee encumbered the land with a mortgage for the purchase money."

Acts 1884-5, p. 92.

1788. *Adopting a child.* Petition to the Superior Court "of the county in which said child may be domiciled."

Acts 1882-3, p. 59. /89-p 69

1808. (a). *Mother guardian.* Since February 28, 1876, the mother of children by a former marriage is not incapacitated to be their guardian by marrying again.

1822-*Guardian & all fine-instrument*, p. IV; B. R. No. 34. /90-1-p 229

1855. *Trial of insanity.* Practising physicians are liable to serve on the jury in these cases. /89-p 10

Acts 1882-3, p. 99.

1855. [a]. *Appointment of Guardian of an insane person without trial.* When the person is under commitment to the asylum as provided in section 1855, or is shown by the certificate of the Superintendent of the asylum to be hopelessly insane, and that a guardian of the property is necessary, such guardian may be appointed without trial by the Ordinary of the county where the person lived at the time of sending to the asylum.

Acts 1884-5, p. 130.

1864. (a). *Pay of Jurors in lunacy cases.* One dollar per day for each day of service, to be drawn by warrant of the Ordinary upon the County Treasurer.

Acts 1887, p. 66.

1936. *Privileges and liabilities of Special partners.* The section now reads: "A special partner may, at any time, examine into the condition and progress of the partnership concerns, and may advise as to the management of the same, and in case of necessity—that is when the general partner or partners may be rendered incompetent to act on account of illness, temporary absence or other cause—may direct and control the business of the partnership as a general partner may do, provided such special partner, before assuming such direction and control, shall cause to be placed in a position easily to be seen by all parties dealing with said partnership, a placard or sign showing who are the general and who the special partners constituting such partnership; otherwise the special partner or partners shall not transact any business on account of the partnership, nor be employed for that purpose as agent, or in any capacity akin thereto," under penalty of becoming liable as a general partner. Rest of section unchanged.

Acts 1884-5, p. 47.

1952. *Voluntary Assignments for the benefit of Creditors.* "In all cases where voluntary assignments are made by insolvent or failing debtors for the benefit of creditors, it shall be the duty of the person, firm or corporation, making such assignment, to prepare and attach to the deed or instrument by which such assignment is made, at the time of executing the same, a full and complete inventory and schedule of all

indebtedness of every kind of such insolvent person, firm or corporation at the time of the execution of said instrument or deed of assignment, which inventory or schedule shall set forth in detail the names of, the amounts due to, and the residence of each of the creditors of such assignor, and which such inventory or schedule shall be sworn to by the person making the assignment; and in case of assignment by firms, the oath may be made by any member of such firm, or in cases of assignment by corporations, by the chief officer of the corporation. No deed or other instrument of assignment, by insolvent persons, firms or corporations, shall be valid unless accompanied by the sworn schedule required by [the first section of] this Act. It shall not be lawful for any assignee, under a voluntary assignment made for the benefit of creditors, to pay out, disburse or deliver any funds or assets in his hands as such assignee to any preferred creditor named in such deed of assignment, until thirty days after the same has been filed with the Clerk of the Superior Court. No creditor of a person, firm or corporation, making an assignment for the benefit of creditors, shall be required first to reduce his debt to judgment before he shall be entitled to ask the remedial aid of a court of equity. In all cases of voluntary assignments for the benefit of creditors, when the same may be attacked as fraudulent, it shall not be necessary to show fraud or collusion, or notice thereof in the assignee, under such deed of assignment, to render the same void; but when fraud can be shown in the assignor, this alone shall be sufficient to authorize a court of competent jurisdiction to declare such assignment void. No assignment shall be set aside except upon a direct proceeding filed for the purpose, and no creditor of the assignor shall obtain any priority or preference of payment out of the assets assigned on any judgment rendered after the filing of the bill in case the deed of assignment is set aside and decreed to be void."

Acts 1884-5, p. 100.

1953. (a). *Assignees must give bond.*

Line 3. Instead of "assignee's," put "assignor's."

Acts 1884-5, p. 53.

1953. (d). *Sworn schedule of assets to accompany assignments.*

Addenda, p x; B. R. No. 134.

1953. (e). *Who may administer oath of debtor to schedule, and punishment for filing false schedule.* The officer in whose presence the deed is executed may administer the oath, and a person filing false schedule may be prosecuted and punished as for *perjury*.

Addenda, p. x; B. R. No. 134.

1955. (a). *Conditional sales.* Selling or encumbering property held under conditional purchase, without consent of the vendor, is punishable by a fine double the amount of the purchase money, or imprisonment, or chain-gang not less than three nor more than twelve months.

Acts 1882-3, p. 111.

1956. *Mortgages. Registry. Cancellation of Record.* "Any mortgager in this State, who may have paid off his mortgage, may present the same

together with the order of the mortgagee or transferee, directing that the mortgage be cancelled, and record the order across the face of the record, to the Clerk of the Superior Court of the county or counties in which the same is recorded, when such clerk is hereby required to write across the face of such record the word "satisfied," and the date of such entry, and sign his name thereto officially. For such services the clerk shall receive fifteen cents, to be paid by the mortgager."

Acts 1884-5, p. 129.

1969. *Conveyance and bond to reconvey. Consent of wife unnecessary. Conveyances and bills of sale to secure debts must be recorded.*

Lines 9, 10. Erase "Provided that the consent of the wife has been first obtained." *1884-5 p 118-111*

Acts 1884-5, p. 57.

1884-5 p 118-111

"All deeds to realty and all bills of sale to personalty, where such deeds or bills of sale are given as security for debt, shall be recorded within thirty days from their date. Every such deed shall be recorded in the county where the land conveyed lies; every such bill of sale in the county where the maker resided at the time of its execution, if a resident of this State; if a non-resident, then in the county where the personalty conveyed is. Such deeds or bills of sale not recorded within the time required remain valid against the persons executing them, but are postponed to all liens created or obtained, or purchases made prior to the actual record of the deed or bill of sale. If, however, the younger lien is created by contract, and the party receiving it has notice of the prior unrecorded deed or bill of sale, or if the purchaser has the like notice, then the title conveyed by the older deed or bill of sale shall be held good against them. In order to admit such deeds or bills of sale to record they shall be attested or proven in the manner now prescribed by law for mortgages in order to admit them to record."

1884-5 p 118-111

1973. *Acts 1884-5, p. 124.*

1977. *Landlord's liens for rent. Transferee of rent contract has benefit of.*
"Whenever any contract for rent is evidenced by writing, and is transferred by written assignment, before the maturity of the crops on the lands rented, the special lien provided for by section 1977 of the Code of Georgia in favor of landlords shall, on the maturity of the crops, arise in favor of the transferee of such rent-contract in the same manner as it would have done in favor of the landlord had no transfer been made. The special lien thus provided for may be foreclosed by the transferee in his own name; provided, the affidavit of foreclosure shall contain a recital of the fact of transfer and such other allegations as are necessary in the foreclosure of special liens by landlords."

Acts 1882-3, p. 109.

Landlord's special lien for rent to be enforced in same way as general lien.
Add at end: "Landlords' special liens for rent shall be enforced by distress warrant in the same manner as the general liens for rent are enforced, and no further allegations in the affidavit to procure a dis-

tress warrant to enforce a special lien for rent shall be necessary than is necessary to enforce the landlord's general lien for rent."

Acts 1887, p. 34.

1978. *Lien for supplies, etc.* *Arises for landlords only.* *44-1896-125*

Line 3. Erase: "and also all persons." Substitute "or."

B. R. No. 1. *44-1896-125*

Paragraphs of this section numbered incorrectly.

979 - A. a. 1893-1034

1980. *Rank of mechanics' liens.* *Time within which to be recorded.*

Par. 2, line 1. Instead of "thirty days," put "three months,"

Par. 4, line 5. Make same change.

Acts 1874, p. 45; B. R. No. 7.

1981. *Mechanics' liens on personality.* Amended so as to read: "All mechanics of every sort, for work done and material furnished in manufacturing personal property, or for repairing personal property, shall have a special lien on the same, which may be asserted by retention of such property, or the mechanic may surrender such personal property and give credit, when the same shall be enforced in accordance with the provisions of section 1991 of this Code, and shall be superior to all liens, but liens for taxes and such other liens as the mechanic may have had actual notice of before the work was done or material furnished. When they surrender possession of the property to the debtor, such mechanics shall record their claim of lien within ten days after such work is done and material is furnished in the office of the Clerk of the Superior Court of the county where the owner of such property resides, which claim shall be in substance as follows: 'A. B.,' mechanic, claims a lien on (here describe the property) of 'C. D.' for work done and material furnished in manufacturing or repairing (as the case may be) the same."

Acts 1884-5, p. 43.

1989. *Lien of Attorneys at Law.* *Time of recording lien on property recovered in suit.*

Line 28. Change "thirty days" to "three months." B. R. No. 7.

1991. (a). *Judgment on replevy bonds in foreclosure of liens on personality.*

Entered up as in appeal cases. *44-1896-125* *Amendable also*
1896-125-22
Addenda, p. ix.; B. R. No. 123. *44-1896-125*

2001. [a]. *A new lien.* *Stock-owner's.* The owner or keeper of a stallion, jack or bull has a lien on the get of the same to secure pay for services rendered.

Acts 1882-3, p. 131.

Boar added, and the Act otherwise improved.

Acts 1884-5, p. 147.

2001. [b]. *Affidavits to foreclose liens amendable.* "All affidavits hereafter made for the foreclosure of liens, including mortgages, shall be amendable to the same extent as ordinary declarations, and with only the

restrictions, limitations and consequences now obtaining in the case of ordinary declarations. This right of amendment shall include the supplying of vital and necessary averments omitted in the original affidavits, but that such amendment shall be sworn to as the original affidavit is now required to be, reasonable time being given for this purpose, when necessary." *+ all affidavits that are the foundation of legal proceedings - Act 1887- p 110*

Acts 1887, p. 59.

2003 (a). *Homestead exemption.* When the Ordinary and Clerk of the Superior Court are both disqualified, *the Judge of the Superior Court* may set apart homestead *at chambers.*

Acts 1882-3, p. 63.

2016. *Homestead. Ordinary disqualified.*

Last line. Instead of "2005," put "205." B. R. No. 17.

2040, par. 2. *Homestead exemption. Yoke of oxen in place of horse or mule.*

Add at end of par. 2: "or in lieu thereof one yoke of oxen."

Acts 1887, p. 43.

par. 5. *Exemption of household and kitchen furniture.*

A slight variation from the order of statement in the Act. B. R. No. 53.

2047. *{ Settlement of exempt property on wife and children.*

2048. *{ Exemptions extend to insolvent estates.*

These two sections are substituted, not as stated in the text-note by "Article VI," but by this Act as amended (by the Act of 1877, p. 76 of Acts.)

2057/80-1 = 149 *for further = also see Act 1887- p 110 -*

2078. *Freight charges.* In weighing cars of freight to be charged for by the car-load, the railroad must employ sworn weighers.

Acts 1882-3, p. 127.

2138. *Definition of a pawn. What may be given in pledge.*

Line 4. After "debt," insert: "warehouse receipts, elevator receipts, bills of lading, and other commercial paper symbolic of property."

Acts 1887, p. 36. /84 - p 36

2224. *Taking private property for light houses, etc.*

The manner of taking private property, for the purpose of erecting light-houses, beacons or range-lights thereon, is prescribed at length.

Acts 1882-3, p. 118.

2237. *What is personality. Transfer of stocks.* Add at end of this section:

"But the stock representing shares in manufacturing companies may be transferred from one person to another, for any purpose whatsoever, by the same means as are, or may be allowed by law for the transfer of personal property." *Act 1887- p 35-*

Acts 1882-3, p. 57.

(The provisions of this section modify materially the statement in section 5 of the Code).

2327-187-1 - p 22 = 149 *for further = also see Act 1887- p 110 -*
187- p 5'

2328. *Sales by trustees. Report of. Reinvestment of proceeds. Application of purchase-money.* "In all cases where a judge in term by order, or by decree based on the verdict of a jury, or by order in vacation, shall order or allow any trust property to be sold, it shall be the duty of the court, chancellor or judge signing the said order allowing said sale, to order and require the trustee or person to make said sale within 60 days from the date of said order, to fill [file] and have recorded in the office of the clerk of the superior court of the county having jurisdiction of said trust property, a written report on oath of his actings and doings under and by virtue of said order, with the name of the purchaser of the property, the price at which the same was sold, together with a description of the property in which the proceeds have been re-invested, the price paid and the name of the person from whom the same was bought; if said proceeds have been re-invested, and if not, the reason therefor. If the proceeds have been re-invested the judge shall pass such order as to him shall seem best, confirming the same or ordering a new investment. If said proceeds have not been re-invested, the judge shall issue such order as shall be necessary, and require said trustee to report within 60 days from said last named order, as hereinbefore required. In case any trustee or other person making a sale as herein provided shall fail, neglect or refuse to make said report and re-investment as herein provided, the judge shall cause a rule to be issued against said trustee or other person making the sale returnable at a time therein stated, and upon the hearing thereof, shall compel the trustee to re-invest said funds under the direction of the court upon pain of being attached for contempt and committed until the same is done. Purchasers shall in no case be required to see to a re-investment of any proceeds of such sales; but guardians *ad litem* and all other persons *sui juris* parties to the proceedings in which leave to sell has been granted, shall be bound to see to said re-investment and report, or upon the failure of the trustee to re-invest and report shall be bound to have the failure to obey said order called to the attention of the court for its action. Courts of chancery being expressly charged with the management and government of trust estates, it is hereby made the duty of the judges of the superior courts of this State to see that the provisions of this Act are enforced."

Acts 1887, p. 56.

2345. *Trustees for Churches, etc. Appointment to vacancies.* Failure to record the certificate of appointment does not render duly appointed trustees incompetent to act.

Acts 1884-5, p. 51.

2435. (a). *The Probate of Foreign Wills.*

This section enlarged by Act of September 19, 1883, and by Act of December 24, 1886.

"In all cases of foreign wills, where any such will disposes of property in Georgia, any person named as executor of such will shall be entitled to prove the same, by complying with the provisions of said Act [i. e. of December 16, 1878; §2435 (a)-(c) of the Code], provided the same be done within twelve months after the death of the testator, *see also 2435 (b)*

tor or within twelve months after the passage of this Act, provided said will is valid under the laws of Georgia. When any such will is so proved, such executor shall be entitled to qualify as a domestic executor and to receive letters testamentary upon the estate of his testator in Georgia upon the same terms and conditions as are required by law of citizens of Georgia, who as executors prove domestic wills, and the administration of the property in Georgia shall thereafter be governed by the same rules as are provided in the case of domestic wills. Nothing herein contained shall be construed as intended to alter the distribution of property, real or personal, as heretofore provided by law."

Acts 1882-3, p. 100.

Probate of Wills made by citizens of other States.

"Any last will and testament made by a person competent to make a will under the laws of Georgia, resident and a citizen of any of the United States other than the State of Georgia, and which may be construed to dispose of real or personal property in this State, shall be admitted to probate in any county of this State where any of the property disposed of by said will may be at the time such probate is sought; *provided*, that said last will and testament shall have been in all respects, executed in accordance with the laws of the State in which he resided at the time of the execution; and *provided, further*, that probate of said will shall have been made in solemn or final form in the State where the testator resided, and admitted to record, finally, as the last will and testament of the testator, according to the laws of that State. A duly authenticated and certified copy of said last will and testament, and of the affidavits, orders and proceedings had and made in the probate of said will and the admission of the same to record in the State where such record was made by the judge of the court or other officer having the jurisdiction of the probate of said will originally and under his hand and the seal of the court where, or the officer before whom made shall be, if accompanied by a certificate under the hand and seal of the Governor of the State where probate was made, that the officer certifying had, for himself or his court, original jurisdiction over the probate of such will, and that the proceedings had in the probate of such will and admission of the same to record are according to the laws of that State, shall be *prima facie* evidence of the death of the testator, his competency to make a will, the genuineness of the will, its legality and the sufficiency of the original probate, and unless controverted in the manner now prescribed by law, as in the case of wills offered in this State, shall be sufficient to make proper probate of same and admit the same to record as of solemn form; *provided*, it shall at the same time be shown that said will disposes of real or personal property then in the county where such probate is sought, and said copy-will may be evidence of same. Any person who would, as an heir at law, be entitled to any portion of the estate of the testator shall be at liberty to file a *caveat* to said will on any ground recognized as legal in this State, and such caveat and the issues thereon shall be tried in the same manner and under the same laws and regulations which govern similar cases where probate is sought to be made of wills executed in this State, except that

the copy-will and certificates thereto, as prescribed, shall *prima facie* entitle the same to be probated and admitted to record as the last will of the testator in solemn form. The effect of the probate as herein made shall be the same in all respects as if the original will had been proven in solemn form and admitted to record in this State, according to the laws of this State, and the title to property disposed of by said will shall rest according to the terms thereof."

Acts 1886, p. 32.

2443. [a]. *Marriage of Executrix.* The marriage of an executrix or administratrix no longer abates her letters, but she may continue her administration, sue and be sued, and her separate estate be bound by judgments, just as if she were a *feme sole*.

Acts 1882-3, p. 101.

2448. *Provisions about Administrators applied to Executors.* As to letters of dismission, see 2606.

2484. *Rules of Inheritance.*

Par. 6. Changed so that the marriage of a widow shall not affect her capacity to inherit.

Line 3. Erase "and a widow."

Lines 4-6. Erase the last sentence.

Acts 1882-3, p. 66.

2494. *Rules for granting Letters of Administration.*

Par. 9. Marriage of executrix or administratrix does not abate her letters. See 2443 [a].

2495. *The County Administrator.* The administration of unrepresented estates used to be vested in the Clerk of the Superior Court, but now is given to a special officer, called the "*County Administrator*," who is appointed by the Ordinary for a term of four years, and required to give bond with good security, in the sum of \$5,000. But additional security may be required at any time when needful. The Clerk of the Superior Court is eligible to the office.

Where there is no county administrator, the provisions of this section (vesting administration in the clerk) still apply.

Acts 1882-3, p. 79.

2505. [a]. *Bond of administrator. How made to give bond after appointment without it.* "Where any person has heretofore or may be hereafter appointed administrator on any estate without being required to give bond and security, any person interested in such estate, either as creditor, distributee, or legatee, may require the person so appointed as administrator to give bond and security as administrator, and in default thereof, be removed; *provided*, the person moving to have bond and security given or the administrator removed, shall present the name of some fit and proper person who is willing to take the administration, and who will give bond and security as such administrator. The person moving shall petition the Ordinary, where administration has been granted, to require the administrator to give bond and security, or in default thereof be removed, in which petition shall be

given the name of the person who is willing to take the administration and give bond and security. The administrator shall be served personally with a copy of the petition, and at the expiration of ten days from the service of the petition, the Ordinary shall hear the same, either in term time or in vacation, and if the Ordinary is satisfied that the person offered as administrator is a fit and proper person to be appointed, he shall require the administrator to give bond and security within a given time, or in default thereof be removed from the administration of said estate. The order requiring the administrator to give bond and security, shall give not less than five nor more than fifteen days within which to give bond and security, and if, at the expiration of the time given, the bond and security is not given, the Ordinary shall vest the administration in the person offered for that purpose."

Acts 1884-5, p. 140.

2541. [a]. *Investment of trust funds by executors, guardians, etc.* "Executors, administrators, guardians and trustees may invest trust funds in stocks, bonds and other securities issued by this State, bearing a lower rate of interest than seven per cent. per annum, and shall, in the settlement of their accounts on the funds so invested, be chargeable with no greater rate of interest than that received from the State; *provided*, that such executor, administrator, guardian or trustee shall, within thirty days after such investment, make a return to the ordinary of the amount and character of the bonds purchased and the price paid."

Acts 1884-5, p. 128.

2558. *Sale of insolvent papers by administrator. Place of sale.*

Line 6. Instead of "court house door," put "place of sheriff's sale." *Line 6. Instead of "court house door," put "place of sheriff's sale." 1859-1-1890-1-p227*

Addenda, p. vi; B. R. No. 76.

1859-1-1890-1-p142

2573. *Distribution. Provision for family. Duty of Appraisers.*

Line 2. They must make "a schedule of the property, or statement of the amount of money set apart by them."

Line 4. Their return must be made "within thirty days from the date of their appointment," instead of "within three months from the date of their action."

Lines 4-7. Omit from "to which" through "are made," and substitute "upon filing said return, the Ordinary shall issue citation and publish notice as required in the appointment of permanent administrators, citing all persons concerned to show cause why said application for twelve months' support should not be granted, and if no objection is made after the publication of said notice for four weeks, or if made is disallowed" [the return is to be recorded, etc.].

Acts 1884-5, p. 49.

2606. [a]. *Dismissal of Executor or Administrator. When reversionary interest may left unadministered.* "Whenever an administrator or executor has fully administered the estate, except the reversionary interest in the land set apart as dower, and it is not necessary to administer the

same to pay debts, such administrator or executor shall be entitled to letters of dismission upon complying with the provisions of law now regulating the granting of such letters. No executor or administrator shall be authorized to sell the reversionary interest in the lands set apart as dower during the life-time of the widow except it be necessary to pay debts."

Acts 1884-5, p. 142.

2611. *Removal of suit against Administrator or Executor to the county of his residence.* Add at end: "When any person is cited to appear as administrator or executor to a settlement of his accounts as provided in section 2598 of the Code of 1882, in the county where he administered, and is not a resident of the county at the time the citation is brought, he may remove the suit at any stage of the case to the county of his residence upon complying with the following conditions: If it be a person cited as administrator, he must comply with section 2611 of the Code of 1882, and in addition he shall give bond and security, in the sum of one thousand dollars, payable to the person or persons citing him, conditioned to file in the court to which the case is removed, all the papers in the case without delay. If the person is cited as executor, he may remove the case by giving the bond referred to and complying with all of the provisions of section 2611 of the new Code, except the second paragraph or division of said action [section], which requires a bond to be given to the Ordinary of the county to which the removal is had. If the case is pending before the Court of Ordinary, it shall be transferred to the Court of Ordinary of the defendant's residence. If the case is pending in the Superior Court, in any stage before the final trial, it shall be transferred to the Superior Court of the defendant's residence and occupy the same position in said court, the applicant first paying all accrued costs. Said removal shall be effected on motion and by complying with foregoing provisions, and all jurisdiction over said case in the court in which said motion is made shall cease; *provided*, that if such executor has been required by the Ordinary of the county from which the trust is removed to give bond, or is required by the will under which he is qualified to give bond, he shall give a like bond in the county to which his trust is removed. The provisions of this Act shall apply only to cases where the parties—plaintiff and defendant—were neither of them residents of the county where the citation was first commenced at the time the suit was brought or application for removal is made; *provided*, the provisions of this Act shall not apply to cases in which citation for settlement against such executor, or administrator, are [is] pending at the time of such proposed removal in the Court of Ordinary without the consent of all the parties in interest thereto first had."

Acts 1882-3, p. 75.

2712. *Deeds in Evidence. Affidavit of forgery, when not allowed.*

"In all cases where affidavits of forgery have been filed to plaintiff's deed or deeds in every case, and said deed or deeds have been turned over to the defendant or his counsel, in order to procure evidence upon said issue of forgery, and shall have been destroyed or

lost by the defendant or his counsel, or for any cause shall not be returned to plaintiff, then in either event it shall be the duty of the Judge trying said case to strike said affidavit of forgery, and withdraw said issue from the jury, until such deed shall be produced. The same rule shall also apply in any case where the plaintiff files an affidavit of forgery as to the deeds of the defendant."

Acts 1887, p. 60.

2841. [a]. *Fidelity Insurance. Defined and regulated.*

"From and after the passage of this Act, the contract of fidelity insurance contemplated by this Act is one whereby a fidelity insurance company, or such other corporation or company as may be doing a fidelity insurance business in this State, for a stipulated sum of money or premium, insures against loss caused by the defalcation, default, neglect or dishonesty of a trustee, officer of the law, officers of court, agents or other employes, and such other persons as may be required to give bond, or guarantees the performance of all such bonds or other obligations in favor of the insured, as individuals now do under the law who sign the bonds of all such persons as sureties.

Any fidelity insurance company, or such other corporation or company as may do fidelity insurance business in this State, incorporated and organized under the laws of this State, or any other State of the United States, or a foreign State, for the purpose of transacting business of fidelity insurance, which has a paid up capital of not less than two hundred and fifty thousand dollars, and which shall have complied with all requirements of law for license to and the transaction of business by such companies, in this State, may upon proper proof thereof and upon production of evidence of solvency and credit, satisfactory to the Judge, head of department or other officer or officers, in this State, authorized to approve and accept bonds, be accepted as surety upon the bond of any person, company or corporation required by the laws of this State to execute bonds in lieu of any surety, or sureties, as now required by law, any such fidelity insurance company, or other companies in this State doing a fidelity insurance business, may be released from its liability on such bonds on the same terms and conditions as are by law prescribed for the release of individuals. It being the true intent and meaning of the provisions of this Act to enable the companies and corporations, doing a fidelity insurance business, to become the surety on all such bonds required by law to be taken, with all the rights, and subject to all the liabilities, of individuals.

Any fidelity insurance company, or such other corporation or company as may be doing a fidelity insurance business in this State, which shall execute any bond as surety under the provisions of this Act, shall be estopped in any proceeding to enforce the liability, which it shall have assumed or incurred to deny its corporate power to execute such instrument, or assume such liability.

In the event any such fidelity insurance company, or other corporation or company doing a fidelity insurance business in this State, shall become surety on any of the bonds or obligations mentioned in this Act, such corporation or company shall be subject to be sued on

such bonds or obligations in the county of the residence of the principal in such bond or obligation, and service may be perfected on said corporation or company as is prescribed for service on fire insurance companies doing business in this State; *Provided*, that said companies, before beginning business in this State, or signing any bond, shall obtain a license from the Comptroller General, which license shall be revoked if said companies as to any bond as to business in this State shall begin a suit in the United States courts, or remove, or cause to be removed, any suit thereto.

All laws and parts of laws in conflict with this Act be, and the same are hereby repealed."

Acts 1887, p. 108.

2842. *Insurance Companies. Regulation of.*

"**SECTION I.** From and after the passage of this Act, the Comptroller-General of this State shall be the Insurance Commissioner of this State, and shall be charged with the execution of all the laws of this State regulating the business of insurance in the State of Georgia.

SEC. II. It shall not be lawful for any insurance company chartered by this State, or other States or foreign government, to transact any business of insurance in this State without first procuring a license from the Insurance Commissioner of this State, and before said Commissioner shall issue such license such insurance company must fully comply with all of the provisions of this Act, and file with said Insurance Commissioner a statement, under oath, of its President and Secretary, specifying: First—The name and locality of the company. Second—The condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items in the following form, namely: First—The amount of the capital stock of the company, and what part of the same has been paid up in cash, and what part is in notes of the stockholders, and how such notes are secured. Second—The property or assets held by the company, specifying:

1. The value, or as near as may be, of the real estate held by such company, if encumbered, to what amount.
2. The amount of cash on hand and deposited in banks to the credit of the company.
3. The amount of cash in the hands of agents and in the course of transmission.
4. The amount of loans secured by bonds and mortgages on real estate.
5. The amount of other loans and how secured.
6. The amount of stocks of this State, of other States in the United States, and of any other stocks owned by the company, specifying the amount, number of shares and par and market value of each kind of stock.
7. The amount of interest actually due and unpaid.
8. The amount of premium notes on hand upon which policies have been issued.
9. The amount of any and all other assets, both real and personal, not covered by or included hereinbefore.

Third—The liabilities of the company, specifying:

1. The amount of losses due and yet unpaid.
2. Amount of claims for losses resisted by the company.
3. The amount of losses not yet due, including those reported to the company on which no action has yet been taken.
4. The amount of dividends declared and due and remaining unpaid.
5. The amount of dividends declared but not yet due.
6. The amount of money borrowed.
7. The amount of all other claims against the company.
8. The amount of reserve for re-insurance.

Fourth—The income of the company during the preceding year, specifying:

1. The amount of the cash premiums received.
2. The amount of notes received for premiums.
3. The amount of interest money received.
4. The amount of income received from other sources.

Fifth—The expenditures during the preceding year, specifying:

1. The amount of losses paid during the year.
2. The amount of dividends paid during the year.
3. The amount of expense paid during the year, including fees and commissions to agents and officers of the company.
4. The amount paid in taxes.
5. The amount of all other payments and expenditures.

Sixth—The greatest amount insured in any one risk and the total amount of insurance outstanding.

Seventh—A certified copy of the Act incorporating the company.

SEC. III. No insurance company of whatever class, except such companies as have already been chartered by this State, Masonic, Odd Fellows, religious and mutual aid societies, and co-operative or assessment life insurance companies, shall be allowed to transact any business of insurance in this State unless possessed of at least one hundred thousand dollars of actual cash capital paid up, or assets, and invested in bonds or stocks, estimated at their actual market value at the date of the statement required by section second of this Act, or in mortgages on real estate, with double the amount for which the same is mortgaged. Upon filing such statement, the Insurance Commissioner, when satisfied that it is correct, and that the company has fully complied with the laws regulating the business of insurance in this State, shall issue licenses to said company to transact business in this State. Said statement and licenses must be renewed annually on the first day of January, or within sixty days thereafter, and must show the condition of said company on the thirty-first day of the preceding December.

In addition to this statement, above required, all companies, including co-operative or assessment life insurance companies doing business in the State, shall, through their chief officer or agent, residing in this State, make to the Governor of this State, semi-annual statements on the first day of January and July of each year, or within sixty days thereafter, which statements shall contain a full and exact report of their condition on the thirtieth day of June and thirty-first day of

December then next preceding said statements to be made in accordance with the terms and conditions set forth and required under the second section of this Act, which shall be sworn to by the officer or agent making the same. That at the time of making such report to the Governor, each company shall publish at its own expense, a duplicate thereof in a newspaper of general circulation published in this State. That should any one of such insurance companies fail or refuse to make said statement to the Governor, it shall, by such failure or refusal, forfeit its right to do business in this State until the first of January of the next year, and on such failure or refusal, the Insurance Commissioner shall recall and cancel the license of such delinquent company.

SEC. IV. All fire, marine and inland insurance companies, chartered by other States or foreign governments, shall be required to deposit with the Treasurer of this State, bonds of the United States, or bonds of this State, which, according to the Acts and resolutions of the General Assembly, are valid, and which amount, according to their face value, to twenty-five thousand dollars, which bonds shall be received for by the State Treasurer, and especially deposited by him in the vaults of the Treasury; and whenever such company ceases to do business in this State, and has settled up all claims against it as hereinafter provided, said bonds shall be delivered up to the proper party on presentation of the Treasurer's receipt. While said bonds are so deposited the owners of the same shall, subject to the notices hereinafter provided for or given, be entitled to collect the coupons and use them. For the bonds so deposited, the faith of the State is pledged that they shall be returned to the parties entitled to receive them, or disposed of as hereinafter provided.

That whenever any loss insured against occurs, the insured, in order to secure his recovery, may give notice to the State Treasurer of the pendency of said loss, and of the amount claimed, after which time the State Treasurer shall be bound to retain, subject to the order of the court trying any suit that may be brought for the recovery of such loss, a sufficient amount to pay the judgment in said case; in the event of recovery, when such suit is ended, and the amount is ascertained, for which said party sued may be liable, is not paid in ten days, then said plaintiff may file an application with the Judge of the Superior Court of the county where the case was tried, for a Receiver to take charge of so many bonds as shall be necessary to satisfy the aforesaid judgment.

When said Receiver is appointed by the Judge, who shall always require bond and security of him for the faithful performance of his duty, said State Treasurer, on his application, shall deliver to him bonds sufficient in their market value, it in his custody, to satisfy said judgment. Said Receiver's receipt shall be a complete discharge to said Treasurer and the State of Georgia. Then said Receiver shall apply to the Judge of said Superior Court for an order of sale, and in pursuance of said order, sell said bonds. After deducting such expenses and commissions as shall be allowed by said Judge, he shall pay over to the plaintiff, or his attorney, a sufficient amount to satisfy the said judgment; and if there remains any residue in the hands of such

Receiver, he shall pay over the same to the agent of the company, taking his receipt for the same, which shall be filed and recorded with the other papers in the case.

If there are conflicting claims, then the State Treasurer shall deliver over to the Receiver, in the order of their applications, the aforesaid bonds; and if there is any contest between creditors, which cannot be settled in this mode, then the party not receiving sufficient bonds through the Receiver appointed in his behalf, may become a party to the other case, and make known his claim to the other Receiver by making affidavit of the claim and filing the same with him, and then the Receiver shall report such claim to the Judge of the Superior Court appointing him, who shall, by order, provide for a bill of interpleader, as in cases in equity.

When any company desires to withdraw from the State, and will satisfy the Commissioner that all suits pending against such party, and of which no notice has been given, have been fully satisfied, or whenever no notice of claim has been given, and when rights under existing policies have been satisfied and released as the provisions of this Act require, then said Treasurer shall return to said party the bonds so deposited, upon order from said Commissioner.

Whenever, by means of the provisions of this Act, the amount of bonds so deposited are reduced, said Treasurer shall at once, notify the Insurance Commissioner, in writing, who shall give notice to the company depositing, and require more bonds to be deposited, so as always to maintain the original amount; and if the company so notified by the Insurance Commissioner fails to comply within thirty days, the license to do business in this State shall be revoked, and said Insurance Commissioner shall, at the same time, give notice by publication in a newspaper published at the Capital, of the fact of such failure and revocation of license. The cost of which publication shall be paid by the company failing to comply with the provisions of this Act. And when any company, having made the deposit required by this Act, has existing policies on property of citizens of this State on which no losses have accrued, and which company wishes to withdraw its deposits, before being allowed so to do, said company shall take up and satisfy said policies, and give notice of its intention to withdraw from the State, and of the fact that it has satisfied all losses and the claims of policy holders above designated, which notice shall be published once a week for — months in a newspaper to be designated by the Insurance Commissioner of the State, and at the expense of said company; and it is hereby provided that any claims of the citizens of this State must, whether for losses or on existing policies where no losses have occurred, be fully settled before said deposits shall be withdrawn.

SEC. V. All life and accident insurance companies chartered by other States of the United States, or foreign governments, shall show by a certificate from the officer having supervision of the insurance department in the State in which they are chartered, or elect to make their deposit, that they have deposited not less than one hundred thousand dollars, in such securities as may be deemed by such officer as equiva-

lent to cash subject to his order, as a guarantee fund for the security of policy holders of said companies.

All such companies chartered by the State of Georgia shall, before doing business in this State, deposit with the Insurance Commissioner of this State, or with some strong corporation which may be approved by him, one hundred thousand dollars, in such securities as may be deemed by him equivalent to cash, to be subject to his order, as a guarantee fund for the security of the policy holders of the company making such deposit; all interest and dividends arising from such securities to be paid when due to the company so depositing them. Any such securities as may be needed by the company may be taken from said Insurance Commissioner, or corporation, at any time, by replacing them with other securities equally acceptable to the Insurance Commissioner, whose certificate for the same shall be furnished to the company.

SEC. VI. It shall be the duty of the Insurance Commissioner, whenever he shall deem it expedient so to do, and he is hereby empowered, either in person or by an expert examiner, by him appointed, to investigate the affairs of any insurance company doing business in this State, to require free access to all books and papers of any company, or the agents thereof, to summon and examine under oath, any person in this State relative to the affairs and condition of said company; for probable cause, to visit at its principal office, wherever it may be, any insurance company not of the State in which the substantial requirements of this Act, as to valuations of policies of life and accident insurance companies, and calculations for the re-insurance reserve of fire, marine and inland insurance companies, are not in force and doing business in this State, for the purpose of investigating its affairs and condition, and revoke its authority to do business in this State, if said company refuses to permit the examination. All expense incurred in the investigation of said companies shall be paid by the companies so examined.

SEC. VII. For every fire insurance company doing business in this State, the Insurance Commissioner shall calculate, or cause to be calculated, the re-insurance reserve for unexpired fire risks, by taking fifty per centum of the premium received on all policies that are written for a period of one year or less, and according to the New York percentage table for calculating re-insurance on all premiums received that have more than one year to run; and in marine and inland insurance he shall charge all the premiums received on unexpired risks as a re-insurance reserve having charged against the company the re-insurance reserve as above determined for fire, marine and inland insurance, and adding thereto all other debts and claims against the company, he shall, in case he finds the capital stock of the company impaired more than twenty per cent., give notice to said company to make good its whole capital stock within ninety days; and if this is not done he shall require the company to cease to do new business within this State, and shall thereupon, in case the company is organized under authority of this State, immediately institute legal proceedings as hereinafter required by the provisions of this Act.

Any such insurance company receiving the aforesaid notice of the

Insurance Commissioner to make good its whole capital stock within ninety days, shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company.

In the case of companies chartered by other States or foreign governments, the Insurance Commissioner of this State shall accept calculations of the re-insured reserve made by the Insurance Commissioner of the State in which they are chartered, when such calculations are made and furnished to the Insurance Commissioner of this State by the first of March in each and every year.

Whenever the Insurance Commissioner shall have reason to believe, from an examination into the affairs of a company, that any insurance company of this State is insolvent or fraudulently conducted, or that its assets are not sufficient for carrying on business, or during any non-compliance with the provisions of this Act, he shall communicate the fact to the Attorney-General, whose duty it shall then become to apply to a Judge of the Superior Court of this State for an order requiring said company to show cause why their business should not be closed, and the Judge shall thereupon hear the allegations and proofs of the respective parties. If it appears to the satisfaction of said Judge that such company is insolvent, or that the interests of the public so require, the said Judge shall decree a dissolution of such corporation and a distribution of its assets; but in case it shall appear to said Judge that said company is able, and has complied with the provisions of this Act, and that it is not insolvent, a decree shall be entered annulling the action of the Insurance Commissioner in the premises, and authorizing the company to resume business.

SEC. VIII. The Insurance Commissioner shall, as soon as practicable, in each alternate year, calculate, or cause to be calculated, the net value, on the 31st day of December of the previous year, of all the policies in force on that day in each life insurance company doing business in this State, chartered by this State, and of every other life insurance company doing business in this State, that shall fail to furnish him, as hereinafter provided, a certificate of the Insurance Commissioner of the State, by whose authority the company was organized, or by the State in which it may elect to have its policies valued and its deposit made, giving the net value of all policies in force in the company on the 31st day of December of the preceding year, which calculation of the net value of each policy shall be based upon the American Experience or Actuary's Table of Mortality and four per cent. interest per annum; *Provided*, that when any life company shall have a cash capital of not less than one hundred thousand dollars, fully paid up and safely invested, the reserve to provide for the liabilities on all policies of such company, not participating in the profits of the company, shall be computed by the American or Actuary's Table of Mortality, with interest at not less than three nor more than six per cent. per annum, in the discretion of the Commissioner, and with reference to the rates of premiums charged by such company. The net value of a policy, at any time, shall be taken to be the single net premium which will, at that time, effect the insurance, less the

value at that time of the future net premiums called for by the table of mortality and rate of interest designated.

In case it is found that any life company doing business in this State has not on hand the net value of all its policies in force after other debts of the company and claims against it, exclusive of capital stock, have been provided for, it shall be the duty of the Insurance Commissioner to publish the fact that the then existing condition of the affairs of the company is below the standard of legal safety established by this State, and he shall require the company at once to cease doing new business, and it is hereby made the duty of the Insurance Commissioner, after having determined as above, the amount of the net value of all policies in force, to see that the company has that amount in safe legal securities after all debts and claims against it, exclusive of capital stock, have been provided for.

He shall accept the valuations made by the Insurance Commissioner of the State, under whose authority a life insurance company is chartered; when such valuations have been made on the basis mentioned above; *Provided*, the company shall furnish to the Insurance Commissioner of this State, on or before the first day of March in each and every alternate year, a certificate from the Insurance Commissioner of such State, setting forth the value, calculated on the dates designated above, of all the policies in force in the company on the previous thirty-first of December, and stating that after all the other debts of the company and claims against it at that time were provided for, the company had in safe securities an amount equal to the net value of all its policies in force, and that said company is entitled to do business in its own State, and every company doing business in the State during the year for which the statement is made, that fails to furnish promptly the certificate aforesaid shall be required to make full detailed lists of policies and securities held or owned by the company to the Insurance Commissioner of this State, and shall be liable for all charges and expenses consequent upon not having furnished said certificate.

It shall be the duty of the Commissioner after he has notified a life insurance company, chartered by the State, to cease doing new business until the net value of its policies in force is equal to that called for by the standard of safety established by the State, at once to cause a rigid examination into the affairs of such company; in case it shall appear that there is no fraud or gross incompetency or recklessness shown to exist in the management, he may, upon publishing the facts in the case, permit such company to continue its business for one year; *Provided*, there is, in his opinion, reason to believe that the company may be able to re-establish the legal net value of all its policies in force. At the end of the year named above, he may renew the permission, in case, on examination, he is satisfied that the company is likely to retrieve its affairs.

Whenever the Insurance Commissioner shall have reason to believe that any insurance company of this State is insolvent or fraudulently conducted, or that its assets are not sufficient for conducting the business of the company, or during any non-compliance with the provisions of this Act, his duty shall be as prescribed in section VII of this Act.

SEC. IX. Any person who solicits in behalf of any insurance company, or agent of the same, incorporated by the laws of this or any other State or foreign government, or who takes, or transmits, other than for himself, any application for insurance, or any policy of insurance to or from such company, or agent of the same, or who advertises or otherwise gives notice that he will receive or transmit the same, or who shall receive or deliver a policy of insurance of any such company, or who shall examine, or inspect any risk at any time, or receive or collect or transmit any premiums of insurance, or make or forward any diagram of any building or buildings, or do or perform any other act or thing in the making or consummating of any contract of insurance for or with any such insurance company, other than for himself, or who shall examine into or adjust or aid in adjusting any loss for or in behalf of any such company, whether any of such acts shall be done at the instance or request, or by the employment of such insurance company, or of, or by, any broker or other person, shall be held to be the agent of the company for which the act is done or the risk is taken.

Any person who shall do or perform any of the acts or things mentioned for any insurance company, or agent of said company, without such company having first received a certificate of authority from the Insurance Commissioner of this State, as required by law, shall be guilty of a misdemeanor, and, on conviction in any court of competent jurisdiction, shall be punished as provided by section 4310 of the Code of Georgia, and shall also pay a sum equal to the State, county and municipal taxes and licenses required to be paid by insurance companies legally doing business in this State; and it is hereby made the duty of the Insurance Commissioner to see that all violators of the provisions of this section are prosecuted.

Any person who shall do any of the acts mentioned in this section, shall also be personally liable to the holder of any policy of insurance in respect of which such act was done, for any loss covered by the same; *Provided*, that the penalties provided for in this section shall not apply to adjusters of authorized insurance companies from whom citizens of this State have purchased insurance for themselves, as provided for in this section, whenever the person or persons purchasing said insurance shall immediately notify the Insurance Commissioner, giving the names and locality of each company in which they have policies, and at the same time pays to said Insurance Commissioner the same license fees and taxes for each company as are now or may hereafter be required of fire insurance companies authorized to do business by the laws of this State; and when the license fees for any company have been paid in any one year by any person or persons who have purchased insurance from said company, then, and in that case, any person or persons purchasing insurance from said company thereafter, shall not be liable for the license fees of said company during the said year, but only for such taxes on premiums as may be required from time to time of insurance companies authorized to do business in this State.

SEC. X. Any insurance company not incorporated or organized under the laws of this State, desiring to transact business in this

State, shall file with the Insurance Commissioner of this State a written instrument or power of attorney duly signed and sealed, appointing and authorizing some person, who shall be a resident of this State, to acknowledge or receive service of process, and upon whom process may be served, for and in behalf of such company, in all proceedings that may be instituted against such company in any court of this State, or any court of the United States in this State, and consenting that service of process upon any agent or attorney appointed under the provisions of this section, shall be taken and held to be as valid as if served upon the company; and such instrument shall further provide that the authority of such attorney shall continue until revocation of his appointment is made by such company by filing a similar instrument with said Insurance Commissioner, whereby another person shall be appointed as such attorney; *Provided*, however, that the provisions of this section shall not be construed to alter or amend the laws now of force in this State relative to bringing suits and serving process on foreign corporations doing business in this State.

If any attorney so appointed shall absent himself from this State, or his usual place of business or abode, or shall secrete himself, so that process may not be served upon him, or shall have become disqualified from any cause whatever, or shall die, the Insurance Commissioner shall immediately appoint an attorney for service for such company, of which appointment, notice in writing shall be immediately given by said Insurance Commissioner to such appointee, and also be sent to the company by mail, or to its general agent or manager, which appointment shall be as valid as if made by the company and shall continue in force until such absent agent or attorney shall return and give to said Insurance Commissioner written notice thereof, or until the company shall have made another appointment in the manner above prescribed; service of process as aforesaid, issued by any such court as aforesaid, upon any such attorney appointed by the company, or by the Insurance Commissioner, shall be valid and binding, and be deemed personal service upon such company so long as it shall have any obligations or liabilities outstanding in this State, although such company may have withdrawn, been excluded from, or ceased to do business in this State. If any company shall fail, neglect or refuse to appoint and maintain within this State such attorney or agent, it shall forfeit the right to do or continue business in this State.

SEC. XI. No person shall act as an agent, in this State, of any insurance company of this or any other State or foreign government doing a business in any manner until said company has fully complied with the provisions of this Act, and received from the Insurance Commissioner certificates of authority for itself and its agents to transact business in this State. The fees of the Insurance Commissioner shall be as follows: For filing certified copy of charter, \$20.00; for examination of annual statement, \$20.00, and for certificates of authority or license to agents, \$3.00 each, one-fifth of which shall be paid to the commissioner in full compensation for services in executing the provisions of this Act. In addition to the payment of

the above fees, each of the said companies shall make a report to the commissioner on the first day of May of each year, or within sixty days thereafter, under oath of the President or Secretary thereof, showing the entire amount of premium receipts of every character and description (deducting returned premiums on cancelled policies) of said companies in this State during the year or fractional part of the year ending the 30th day of April next preceding, whether said premiums were received in money or in notes, credits or any substitute for money, to be taxed as may be provided by law from time to time.

SEC. XII. Whenever the existing laws of any other State of the United States shall require of insurance companies chartered by this State, and having agencies in such other State, or of the agents thereof, any deposit of securities in such State for the protection of policy-holders or otherwise, or any payment or penalties, certificates of authority, license fees, or otherwise, greater than the amounts required for such purposes from similar companies of other States by the then existing laws of this State, then, and in every such case, all companies of such States establishing, or having heretofore established an agency or agencies in this State, shall be and are hereby required to make the same deposit for a like purpose with the Insurance Commissioner of this State, and to pay to said commissioner, for penalties, certificates of authority, license fees or otherwise, an amount equal to the amount of such charges imposed by the laws of such State upon companies of this State and the agents thereof.

SEC. XIII. It shall not be lawful for any corporation or association, organized under the laws of this or other States of the United States for the purpose of furnishing life indemnity or insurance upon the assessment plan by its agents, to do any business in this State until such corporation or association shall deposit with the Insurance Commissioner of this State a certified copy of its charter or articles of corporation, a copy of its statement of business for the year ending the 31st day of the next preceding December, sworn to by the President or Secretary or like officers thereof, setting forth the number and amount of certificates of membership or policies in force, and a detailed account of its expenditures, income, assets and liabilities, and also a certificate, sworn to by the President and Secretary, or like officers thereof, setting forth that it has paid and has the ability to pay its certificates or policies to the full limit named therein; that its certificates or policies are payable only to beneficiaries, having a legal insurable interest in the life of the member or insured, that an ordinary assessment upon its members is sufficient to pay its maximum certificate of membership or policy, theretofore or thereafter to be issued, to the full amount or limit named therein; a certificate from the Insurance Commissioner, or other like officer charged with the duty of executing or enforcing the execution of the insurance laws of its home State, certifying that it is legally entitled to do business in said home State; a copy of the application for membership or insurance, and of each form thereto, if more than one form is used; a copy of the constitution and by-laws and of each and every addition thereof, which must show that all indemnities to beneficiaries are in the main provided for

by assessments upon all surviving members. And whenever said company shall fail to pay a valid claim to the full limit named in any policy issued by them to any resident of this State, the Insurance Commissioner shall revoke their authority to do business in this State.

SEC. XIV. After authorizing such corporation or association to do business in this State, as provided in this Act, the Insurance Commissioner shall issue licenses to agents thereof, to be designated by the corporation or association, to a general agent thereof, authorizing them to act as such agents during the year for which said company is licensed, but such licenses must be renewed annually.

SEC. XV. Any agent, physician or other person, who shall knowingly secure, or cause to be secured, a certificate of membership on any person without his knowledge or consent, or by means of misrepresentations, false, fraudulent, or untrue statements, be instrumental in securing a certificate of membership on any aged or infirm person, or in restoring to membership any person not in an insurable condition, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than one hundred dollars nor more than one thousand dollars, or be imprisoned in a county jail not less than thirty days nor more than one year, or both; in the discretion of the court, and said certificate or renewal so secured shall be absolutely void.

SEC. XVI. Every corporation or association, which may be doing business in this State under the provisions of this Act, shall, on or before the first day of March in each year after it commences to do business in the State, make and file with the Insurance Commissioner of the State a report of its affairs and operations during the year ending the 31st day of December next preceding. Such annual report shall be made upon blank forms to be provided and furnished by the Insurance Commissioner, and shall be verified under the oath of the President or Secretary, or other like officers, and shall be published, or the substance thereof, in the annual report of said Insurance Commissioner.

SEC. XVII. There shall be paid to the Insurance Commissioner by each corporation or association (when it is) authorized to do business in this State under the provisions of this Act, the same fees as required by section eleven of this Act, together with all such subsequent fees as are prescribed under said section eleven. In addition to the foregoing fees, every such corporation or association shall, on or before the first day of July of each year, report, under oath of its President and Secretary, or other like officers, to the Insurance Commissioner the gross amount received on business done in this State during the year ending the 30th of April next preceding, and shall at the same time pay into the treasury of this State a tax of one dollar upon each one hundred dollars of such gross amount so received by said association or corporation; *Provided*, however, that if such corporation or association should at any time be the owner of any real or personal property situated in this State, such property shall not be exempt from taxation by reason of the provisions of this section.

SEC. XVIII. If such corporation or association shall at any time fail or refuse to make the annual report, or to pay the tax on the

gross amount received, as hereinbefore provided, the Insurance Commissioner shall forthwith suspend or revoke all authority to such corporation or association, and all its agents, to do business in this State, and shall publish such revocation in some newspaper published in this State, and may proceed to collect whatever sum of money may be due or owing on account of such tax by suit or action, in the name of the State of Georgia, against such corporation or association.

SEC. XIX. Nothing in this Act contained shall apply to or be construed to require any fraternal, or secret, or industrial societies, or other associations exempt by law, now organized, or to be organized in this State, to pay any license fee or tax, or to make or file reports with the Insurance Commissioner, or to prevent the same from doing business in this State, when the money, benefit, charity or relief is payable by the grand or supreme body of the same, and is derived from assessments on subordinate lodges, councils or other bodies or their members.

SEC. XX. Any corporation now, or hereafter, organized under the laws of this State for the purpose of transacting the business of fidelity insurance, shall be licensed to transact business upon compliance with all the requirements in this Act prescribed with reference to life insurance companies organized under the laws of this State, so far as the same may be applicable to such fidelity insurance company; any fidelity insurance company incorporated and organized under the laws of any other State of the United States, or foreign governments, and which has a paid-up capital of not less than two hundred and fifty thousand dollars, may be licensed to transact business in this State upon compliance with all the requirements prescribed by this Act, so far as the same may be applicable for license to foreign life insurance companies to transact business in this State.

SEC. XXI. All live stock and steam boiler insurance companies chartered by this State or other States of the United States, or foreign governments, and doing business in this State, shall be subject to all the requirements of this Act in relation to life insurance companies, except the requirements in relation to valuation of policies.

SEC. XXII. The Insurance Commissioner and such person or persons as may be appointed by him to make inspections, are hereby authorized to administer any and all oaths to parties and witnesses, as required under the provisions of this Act.

SEC. XXIII. All laws and parts of laws in conflict with this Act, be, and the same are hereby repealed."

Approved October 24th, 1887.

Acts 1887, pp. 113-127.

3848-A. 24-7-1-35

2850. (1). *Regulation of Assessment Life Insurance Companies.*

SECTION I. "From and after the passage of this Act, it shall not be lawful for any corporation or association organized under the laws of this State for the purpose of furnishing life indemnity or insurance upon the assessment plan, by its agents to do any business in this State, or for any person to act within this State as agent in soliciting, procuring, receiving or transmitting any application for membership or insurance in or for or on behalf of any such corporation or associa-

tion, unless such corporation or association shall be authorized to do business in this State and such agent licensed by the Comptroller-General as hereinafter provided.

SEC. II. Any corporation or association organized under the laws of any other State of the United States for the purpose of furnishing life indemnity or insurance upon the assessment plan, or that is carrying on the business of life or accident insurance upon the assessment plan shall receive from the said Comptroller of this State a certificate that it has complied with the provisions of this Act and is authorized to do business in this State whenever such corporation or association shall deposit with him a certified copy of its charter or articles of incorporation, a copy of its statement of business for the year ending the thirty-first day of the next preceding December, sworn to by the president and secretary, or like officers thereof, setting forth the number and amount of certificates of membership or policies in force, and a detailed account of its expenditures, income, assets and liabilities, and also a certificate sworn to by the president and secretary, or like officers thereof, setting forth that it has paid and has the ability to pay its certificates or policies to the full limit named therein; that its certificates or policies are payable only to beneficiaries having a legal insurable interest in the life of the member or insured; that an ordinary assessment upon its members is sufficient to pay its maximum certificate of membership or policy theretofore issued, if any, or thereafter to be issued to residents of this State to the full amount or limit named therein; a certificate from the auditor, or other like officer charged with the duty of executing or enforcing the execution of the insurance laws of its home State, certifying that it is legally entitled to do business in its home State; a copy of the application for membership or insurance, and of each form thereof if more than one form is used; a copy of the form of certificate of membership or policy, and of each form thereof if more than one form is used; a copy of the constitution and by-laws and of each and every edition thereof, which must show that all indemnities to beneficiaries are in the main provided for by assessments upon all surviving members.

SEC. III. No such corporation or association mentioned in the preceding section shall transact any business in this State by an agent, unless it shall first file with the Comptroller a written instrument or power of attorney, duly signed, sealed and acknowledged, authorizing some person who is a resident of this State, to be named in such instrument or power of attorney, to acknowledge service of process for and on behalf thereof, which service shall be taken and held to be as valid as if served upon such corporation or association according to the laws of this or any other State; *Provided*, that if such attorney shall die, be removed or resign, or cease to be a resident of this State, it shall be the duty of such corporation or association in like manner to appoint and designate another person, a resident of this State, to act as such attorney, within thirty days after being notified by the Comptroller of the vacancy in said office.

SEC. IV. After authorizing such corporation or association, to do business in this State, as provided in this Act, the Comptroller shall

issue licenses to agents thereof, to be designated by the corporation or association, or a general agent thereof, authorizing them to act as such agents for the term of one year, but such licenses must be renewed annually.

SEC. V. Whoever solicits, procures or receives in or transmits from this State any application, other than his own, for membership or insurance in any corporation or association embraced by the first section of this Act shall be deemed and held to be an agent of such corporation or association within the meaning of this Act.

SEC. VI. Any person who shall transact any business for any corporation or association embraced by the first section of this Act, as an agent thereof within the meaning of this Act, without first procuring and having a license from the Comptroller to act as such agent, or after such license has been suspended or revoked, shall be deemed and held to be guilty of a misdemeanor, and shall be subject to arrest, and upon conviction for such offense shall be fined not less than fifty dollars nor more than one hundred dollars for each offense.

SEC. VII. Any agent, physician or other person who shall knowingly secure or cause to be secured a certificate of membership on any person, without his knowledge or consent, or by means of misrepresentations, false, fraudulent or untrue statements, be instrumental in securing a certificate of membership on any aged or infirm person, or in restoring to membership any person not in an insurable condition, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than one hundred dollars nor more than one thousand dollars, or to be imprisoned in a county jail not less than thirty days nor more than one year, or both, in the discretion of the court, and said certificate or renewal so secured shall be absolutely void.

SEC. VIII. Every corporation or association which may be doing business in this State, under the provisions of this Act, shall, on or before the first day of March in each year, after it commences to do business in this State, make and file with the Comptroller of this State a report of its affairs and operations during the year ending the thirty-first day of December next preceding. Such annual reports shall be made upon blank forms to be provided and furnished by the Comptroller, and shall be verified under the oath of the president and secretary, or other like officers, and shall be published, or the substance thereof, in his annual report by the Comptroller.

SEC. IX. There shall be paid to the Comptroller by each corporation or association which may be authorized to do business in this State, under the provisions of this Act, the following fees, to-wit: For filing charter or articles of incorporation, etc., when certificates of authority shall be first issued, and all licenses issued during the ensuing year, a fee of \$100; for filing annual report and issuing licenses each year thereafter, a fee of \$100, said fees to be in full of fees for filing annual statement, licenses to agents and for certificates of compliance or authority. In addition to the above fees, every such corporation or association shall, on or before the first day of July in each year, report under oath of its president and secretary, or other like officers, to the Comptroller the gross amount received on new business done in this

State at home office of such corporation or association during the year ending the thirtieth day of April next preceding, and shall at the same time pay into the Treasury of this State a tax of one dollar upon each one hundred dollars of such gross amount so received by the home office of the said association or corporation. Said fees and taxes shall be in full and in lieu of all other State and county, town and city licenses, taxes and fees; *Provided, however,* that if such corporation or association should at any time be the owner of any real or personal property situated in this State, such property shall not be exempt from taxation by reason of the provisions of this section.

SEC. X. If such corporation or association shall at any time fail or refuse to make the annual report, or to pay the tax on the gross amount received by the home office as hereinbefore provided, the Comptroller shall forthwith suspend or revoke all authority to such corporation or association and all its agents to do business in this State, and shall publish such revocation in some newspaper published in this State, and may proceed to collect whatever sum of money may be due or owing on account of such tax by suit or action in the name of the State of Georgia against such corporation or association.

SEC. XI. Nothing in this Act contained shall apply to or be construed to require any fraternal or industrial societies, by whatever name known, now organized or that may hereafter be organized in this State, to pay any license fee or tax or to make or file reports with the Comptroller, or to prevent the same from doing business in this State, when the money, benefit, charity, relief or aid is payable by the grand or supreme body of the same, and is derived from assessments upon subordinate lodges, councils or other bodies or their members."

Approved October 17, 1885.
Acts 1884-5, p. 143.

2914. *Period of Limitation on judgments.* "No judgment hereafter obtained in the courts of this State shall be enforced after the expiration of seven years from the time of its rendition, when no execution has been issued upon it, and the same placed upon the execution docket as now provided by law, or when execution has been issued and seven years have expired from the time of the record upon the execution docket of the court from which the same issued of the last entry upon the execution made by an officer authorized to execute and return the same. In case any execution issues from any court having no execution docket, then said record shall be made on the execution docket of the Superior Court of the county where the defendant resides. The clerk, or the proper officer making such record, shall date such record when the same is made. For the record of every such entry the clerk shall receive a fee of twenty-five cents." (October 15, 1885.)

Acts 1884-5, p. 95.

2928. [a]. *Limitation against the creditor of an unrepresented estate.* "The time accruing between the death of a person and representation taken upon his estate, or between the termination of one representation and the commencement of another, shall not be counted against creditors of his estate; *provided*, such time does not exceed five years,

at the expiration of that [which] time the limitation shall commence."

Acts 1882-3, p. 104.

2971. *Homicide of husband, father, mother, wife or child, recovery for. Meaning of 'homicide' in this section. Valuation of the life.*

Line 6. After "children," insert: "The husband may recover for the homicide of his wife, and if she leave child or children surviving, said husband and children shall sue jointly, and not separately, with the right to recover the full value of the life of the deceased, as shown by the evidence, and with the right of survivorship as to said suit, if either die pending the action. A mother, or if no mother, a father, may recover for the homicide of a child, minor or *sui juris*, upon whom she or he is dependent, or who contributes to his or her support, unless said child have a husband, wife or child. Said mother or father shall be entitled to recover the full value of the life of said child. The word 'homicide,' used in this section, shall be held to include all cases where the death of a human being results from a crime or from criminal or other negligence."

At end. Add: "Full value of the life of the deceased as shown by the evidence," as used in this section, shall be held to mean the full value of the life of the deceased, as shown by the evidence, without any deduction for necessary or other personal expenses of the deceased had he lived."

Acts 1887, p. 44.

[There is no provision here for recovery by children for the homicide of a widowed mother, although a widow may have children dependent on her.]

3033. *Injuries by a common carrier acting out of its charter powers.* "In all cases where the person or property of an individual may be injured, or such property destroyed by any corporation engaged as a common carrier in the transportation of freight or passengers, or both, either by land ~~or~~ water, such corporation shall be liable to pay damages to any one whose person or property may be so injured or destroyed, notwithstanding the fact that such corporation was acting without the scope of its charter, if such corporation would be liable for such damages if acting within its chartered powers and authority."

Acts 1884-5, p. 136.

3082. [a]. *Merger of Equity and Common Law Courts.*

1. "Any person desiring to obtain equitable relief on the common law side of any Superior Court in this State may, in a separate suit for that purpose, or in connection with a suit claiming only such remedy or relief as is administered in courts of common law, claim equitable relief on the common law side of any Superior Court in this State by appropriate and sufficient pleading, and obtain the equitable relief sought, or such as is proper in the case presented in the pleadings, if sustained by evidence; and said person, so claiming equitable relief, may, and is hereby authorized to make all necessary parties to secure equitable relief, either at the beginning of his suit, or afterwards by amendment; and may make amendments in matters of form or substance to his suit as is now allowed courts of com-

mon law or equity. Said person, so claiming equitable relief on the common law side of the Superior Court, may also, at any time, in aid of his suit, apply for and obtain, by proper pleading and proof, any of the extraordinary remedies known in courts of equity, or such as are, or may be granted by the Judge of the Superior Court exercising chancery jurisdiction, upon the same terms and conditions as are now granted in equitable proceedings."

2. "A defendant to any suit or claim on the common law side of the Superior Court, whether such suit be for legal or equitable relief, may claim legal or equitable relief, or both, by framing proper pleadings for that purpose, and sustaining them by sufficient evidence. Such defendant may also, if it is necessary to obtain complete relief, make necessary parties; and may also, by proper pleadings and sufficient evidence, obtain the benefit of extraordinary remedies allowed in equitable proceedings by the Superior Court, or by the Judge thereof exercising chancery jurisdiction, at such times and on such terms as such remedies are granted by said court, or by said Judge exercising chancery jurisdiction."

3. "The Superior Court having jurisdiction of the matters set forth in sections 1 and 2 of this Act, and the Judge of the Superior Court exercising chancery jurisdiction over the same, be, and are hereby authorized to require proper and sufficient pleadings, to be determined by rules now applicable in equitable proceedings, in any claim or defense presented under sections 1 and 2 of this Act, and to require, when existing laws do not sufficiently provide for and regulate the same, sufficient notice of the pleadings provided for in sections 1 and 2 of this Act."

Acts 1884-5, p. 36. — 1887-1888.

Thus carrying into effect Art. vi, §4, par. 2 of Constitution.

Further provisions in the same direction are as follows:

Legal and equitable causes of action, issues, and remedies may be joined, tried and administered in one and the same action, which is commenced within the time and by the petition and process now used in actions at law. Special statutory proceedings not affected. "The Superior Courts of this State, on the trial of any civil case therein, shall give effect to all the rights of the parties, legal or equitable, or both, in favor of either party, such as the nature of the case may allow or require. Hereafter all civil suits begun in a Superior Court of this State, founded on a legal or equitable cause or [of] action, for a legal or equitable remedy, or both, shall be commenced by a petition addressed to said court, which shall set forth the cause of action, legal or equitable, or both, which is hereby allowed, and his claims for legal or equitable relief, or remedy or both, which is hereby allowed, plainly, fully and distinctly. Whenever, by existing law, copies of contracts or other instruments of writing, records, exhibits and abstracts of writing, should be incorporated in or attached to the pleadings of the parties, the same rule must be followed in pleadings referred to in this Act. Whenever any extraordinary relief or remedy as known in Courts of Equity, is claimed in aid of any action or defense as provided for in this Act, the same may be claimed from the Superior

Courts of this State, or judges thereof, according to existing law, either in the original petition and answer, or by amendment thereto by special petition and pleading for that purpose. No petition needs to be verified, unless it seeks an extraordinary equitable relief or remedy, in which case it must be. The form of process to the petition referred to above, shall be that at present required in actions at law varied to meet the nature of the action, relief and remedy sought, and shall be annexed to the petition and filed and served as now required in actions at law, unless this is impossible when service shall be made as is now required in equitable proceedings. The time of filing in office of said petition shall be as prevails in actions at law. The defendant may, by proper pleadings, raise issues of law or fact, legal or equitable, or both. Such issues of law must be raised by demurrer. All grounds of demurrer now existing by law or in equity may be used, when applicable to his case, by the defendant. Issues of the fact may be raised by plea or answer, which may be of a dilatory nature, or to the merits. These grounds of defense shall be such as are allowed at law or in equity. Pleas and answers may be demurred to as now provided by law, and if new matter is set up by defendant, not controverting the plaintiff's petition, the plaintiff, in proper cases, may be required by the Court to meet the same by appropriate written allegations. Nothing in this Act shall repeal or affect the mode of any special statutory proceedings now required by law, such as the foreclosure of liens and mortgages, proceedings to eject tenants and intruders, claims and illegalities, *mandamus*, *quo warranto*, prohibition, *habeas corpus*, establishment of lost papers, petitions to the Judge of the Superior Court at chambers, or other special proceedings of like nature, nor any statutory form of action or declaration, nor any common law form of declaration now used."

Acts 1887, p. 64. *Act 24-1 § 57*

3097. [aa]. *Master's or Auditor's Report. Trial in Court.*

"Masters in chancery, or auditors at law or in equity, shall each report the evidence heard by him, the facts found by him, and his rulings on all questions of law, and a general summary of his findings. Exceptions filed to the report of a master in chancery, or auditor, shall plainly and distinctly state the finding or decision complained of and the error committed. It shall be the duty of the Judge of the Superior Court to carefully and attentively examine the report of the master in chancery or auditor, and if it does not appear that error has been committed, he shall approve the report and dismiss the exceptions, and a verdict shall be taken in accordance with the findings of the master in chancery, or auditor. But if he shall find that error has been committed, he shall approve the exceptions, making that assignment, and cause the issue thus made to be submitted to a jury, in which trial only so much evidence reported by the master or auditor, as is pertinent to the issue then on trial, shall be read to the jury with such newly discovered evidence as would authorize the grant of a new trial taken in connection with the evidence already adduced; which newly discovered evidence shall be made to appear such by affidavits supporting the same satisfactory to the presiding

judge, and which newly discovered evidence may be presented to the jury orally, or by deposition. If the master, or auditor, has admitted illegal testimony or rejected competent testimony, the report shall be approved, if the testimony could not or should not have affected the result, but if that testimony might have affected the result, the exceptions shall be approved, and in the trial of the issue made by it, the testimony illegally rejected shall be given to the jury, and so much of the reported evidence as was illegally admitted by the master, or auditor, excluded."

Acts 1884-5, p. 98;

3097. (c). *Masters in Chancery. Trial of exceptions to report.*

Two slight mistakes in the Code:

Line 1. Instead of "facts," put "fact."

Line 19. Instead of "purposes," put "purpose."

B. R. No. 126.

3097. (d). *Same. Decree on Master's report.*

Line 3. After "exceptions," insert "of fact." B. R. No. 126.

3149 - *Recomm. of a recd. of 189-674*

3198. [a]. *Trial of mandamus cases.* "Upon the presentation of an application for mandamus, if the mandamus *nisi* is granted, the judge shall cause the same to be returned for trial not less than ten nor longer than thirty days from said date—defendant to be served at least five days before the time fixed for such hearing; if the answer to said mandamus *nisi* involves no issue of fact, the same shall be heard and determined in vacation, unless court then be in session, when it may be determined in the Superior Court. If an issue of fact is involved in said cause, it shall be in order for trial upon the first day of the next term of the Superior Court, as other jury causes are tried; *provided, however*, that if the Superior Court be in session, or taking a recess at the time fixed for trial in the mandamus *nisi*, the same shall stand for trial at the then present term. Upon refusal to grant the mandamus *nisi*, petitioner shall have his bill of exceptions to the Supreme Court, as now provided in cases of the granting and refusing injunctions, and either party dissatisfied with the judgment in the hearing of the answer to the mandamus *nisi*, may likewise file his bill of exceptions. If an issue of fact is involved, it may be heard by the Judge in vacation upon the consent of all parties. Mandamus cases shall be heard in the Supreme Court under the same laws and rules as now apply to injunction cases."

Acts 1882-3, p. 103.

3212. *Hearing in injunction cases.* Provisions for taking testimony, see 3508-18; Acts 1882-3, p. 96.

3215. (a). *Injunction. Preceding sections apply to other cases.* This matter is amendatory of the next section.

3217. *Arising from a bill in chancery at 3508-18/52 p 96*

3219. [a]. *Injunction from getting turpentine. When granted.* Insolvency of the trespasser, or irreparable character of the trespass need not be shown, but the complainant must have a perfect title to the land,

which must be set out in an exhibit attached to the bill. In case temporary order is granted, bond with surety must be required to answer any damages sustained by the defendant in consequence of the order. The proceedings on this bond are the same as in the case of *appeal bonds*.

Acts 1884-5, p. 93; Acts 1887, p. 63.

3238. *Terms of the Supreme Court changed.*

Line 3. Instead of "second Monday in February," put "first Monday in March."

Line 4. Instead of "first Monday in September," put "first Monday in October"

Acts 1884-5, p. 45.

3244. *Adjournment of Superior and City Courts five days before next term.*

"It shall be the duty of the Judges of the Superior and City Courts, in this State, to adjourn the regular and adjourned terms of said courts at least five days before the commencement of the next regular term of said courts."

Acts 1887, p. 58.

b-5-6. [To give the clerks time to arrange and prepare papers and dockets.]

3245. *Attachment. Bond of Claimant. Amount.*

Lines 9, 10. Instead of being in a sum "at least equal to double the value of the property claimed," the amount is to be "not larger than double the amount of the attachment levied; and where the property attached is of less value than the attachment, the amount of the bond shall be double the value of the property attached."

3331-*Spec. of attachment* /90-1-p. 74; 3332 = *Com. of bush* /87-5-8

3339. [a]. *Service of process. Too late for one term; good for the next.*

"Whenever from any cause a process issued from any of the courts of this State, either at law or in equity, is served, which service is not made the length of time now required by law before the appearance term of the court from which such process is issued, as set forth in the process, such service shall be good for the next succeeding term thereafter which succeeding term shall be the appearance term of such cause."

3341 = *Spec. of attachment* /90-1-p. 110; 3342 = *Com. of bush* /87-5-8

3369. *Suits against Corporations. Place of suit and service of writ.* "Any corporation, mining or joint stock company, chartered by authority of this State, may be sued on contracts in the county in which the contract sought to be enforced was made, or is to be performed, if it has an office and transacts business there. Suits for damages because of torts, wrong or injury done, may be brought in the county where the cause of action originated. Service of such suits may be effected by leaving a copy of the writ with the agent of the defendant, or if there be no agent in the county, then at the agency or place of business. Where such corporation has an agent and place of business in any county or district in which there may be a suit, attachment or judgment upon which garnishment is sought against such corporation or

company, the court wherein is pending said proceedings upon which the garnishment is based shall have jurisdiction also of the garnishment proceeding, and service of summons of garnishment upon the agent in charge of the office or business of the corporation or company in the county or district at the time of service shall be sufficient service."

Acts 1884-5, p. 99.

3369. (a). *Service on lessee of railroad.* This section is *repealed*. Substitute: "When any person or corporation is sued as lessee of a railroad, service of writ, subpœna, summons or other process by delivering a copy thereof to the depot agent or other officer of such lessee in the county where suit is pending, or by leaving a copy at the place of transacting the usual and ordinary public business of such lessee in said county, shall be deemed sufficient service.

Acts 1884-5, p. 49.

3402. [a]. *Change of venue in civil cases.* "Whenever the presiding Judge shall be satisfied that an impartial jury cannot be obtained in the county where any civil cause is pending—only by an examination *voir dire* of the persons whose names are on the jury lists of such county, and who are compellable to serve on the jury—then, if a jury cannot be obtained, it shall be lawful for such civil cause to be transferred to any county that may be agreed upon by the parties or their counsel; and in the event the parties or their counsel fail or refuse to agree upon any county in which to try said cause then pending, the judge is hereby authorized to select the county in which the same shall be tried, and have the cause transferred accordingly; and it shall be lawful for the Judge of the Superior Court, when any civil cause has been once transferred, to again change the venue from the county to which the transfer was first made to any other county, in the same manner as the venue was first changed from the county in which said civil cause was originally commenced, said change of venue subject to this statute.

It shall be the duty of the Clerk of the Superior Court of the county from which the cause has been transferred, to send a true transcript of the order for the change of venue, together with a certified copy of the record in such cause, including depositions and orders, and all pleadings, to the Superior Court of the county to which the cause has been transferred.

After said cause is transferred, all further proceedings shall be conducted as if said cause was originally commenced in the court to which the same was transferred.

All costs which accrued up to the time of the transfer of such cause, shall, at the termination of said cause, be paid by the party or parties against whom the same may be assessed, to the proper officers of the county from which said cause was transferred."

Acts 1884-5, p. 35.

This Act carries into effect Art. vi, §xvii, par. 1, of the Constitution.

3409 = Section 17, Article VI, Constitution of the State of Georgia, 1864, 1865, 1868, 1877, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 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3420. *Trover. Property perishable, or expensive to keep, may be sold.*

"Whenever any lawful officers of this State shall have taken possession of any property under process, in any case of trover, and neither the plaintiff nor defendant shall replevy such property, and such property remains in the hands of such officer, and is of a perishable nature, or liable to deterioration from keeping, or that there is expense attending the keeping of the same, the same may be sold under the provisions of section 3648 of the Code of Georgia of 1882, as to sale of property levied on under attachment; *provided*, that in case the property is sold the plaintiff, in case of recovery, shall only be entitled to a money verdict for the amount of the proceeds of such sale, together with hire or interest from the date of conversion to the date of seizure, if the jury shall so find."

3495. *Acts 1887, p. 59. 80-1-190-1 = p 76*

3508-18. *Production of Papers, etc.*

The provisions of this chapter are made to apply to the taking of testimony in cases of *injunction, motions for new trial, etc.*

3514. *Acts 1882-3, p. 97, §1ii. 82-3-789, 1. 101-192-60.*

3533. *Garnishment. How obtained.* The bond must also indemnify defendant against damages sustained, if the property should be found not subject to garnishment. Add at end of section, "or that the property or money sought to be garnisheed was not subject to process of garnishment."

Acts 1884-5, p. 54.

3540. *Garnishment. How dissolved.* Plaintiff may enter up judgment on defendant's bond, "whenever said plaintiff shall obtain the judgment of the court where said garnishment is pending against the property or funds against which garnishment was issued."

"The garnishee shall file his answer stating what amount he was indebted to the defendant, or what effects he had in his hands belonging to the defendant at the time of the service of such summons, and what he had become indebted to the defendant, or what effects had come into his hands belonging to the defendant, between the time of the service of such summons and the making of his answer, and in the event that the court shall decide that the fund or property in the hands of the garnishee were subject to garnishment, had the garnishment not been dissolved, then the court shall render judgment against the defendant and his securities."

Acts 1884-5, p. 96.

3554. *Garnishment. Wages of certain persons exempt.*

Line 2. Instead of "journeymen, mechanics," put "journeymen mechanics." B. R. No. 33.

3580. *Judgment binds what property.* The part of crops reserved as *rent* is exempt from the lien of any judgment, decree or other process against the tenant.

Acts 1884-5, p. 91.

3583. *Lien of judgment on transferred property. How discharged.* In the next to last line, instead of "the foregoing," put "this." B. R. No. 92.

For issuing commission to take interrogatories	50
For affidavit, summons and trial in cases of bail trover	1 25
For backing <i>fi. fa.</i> from another county	35
For issuing rule <i>nisi</i> vs. officer	35
For trying the same	35
For judgment on same	35
For attachment for contempt against an officer of the court for failure to comply with any lawful order or process of the court	50
Acts 1887, p. 55.	

3700. *Fees of Constables.* "For executing a warrant against intruders or tenants holding over \$1 25."
Acts 1882-3, p. 111.

3704. (d). *Officers of Court to have no commissions.*

Line 10. After "any," insert "such." B. R. No. 81.

3711. *Motion for New Trial.* For the provisions as to taking testimony, see Acts 1882-3, p. 96; 3508 in this book.

3716 = *affidavit and motion for new trial* / 82-3 - p 96

3736. *Claims to property in execution.* *Original fi. fa. may be withdrawn.*

"The plaintiff in execution in all claim cases pending in the courts of this State, or that may be hereafter pending, shall have the right to withdraw the original *fi. fa.* from the files of the court after the same has been returned to the court with the claim papers as required by law in claim cases, by making application therefor, in person, or by agent, or attorneys, to the clerk of the court, if there be a clerk, or to the court, if there be no clerk; upon application being made to such clerk or court, as the case may be, [he] shall make a true copy of such *fi. fa.* with all the entries thereon, and shall certify the same to be true, which certified copy shall be filed with the said claim papers in lieu of the original *fi. fa.*, and an entry of the filing made thereon; for which copy and certificate the usual fees shall be paid by the party withdrawing the original *fi. fa.*"

3744 = *claims before entry* / 82-1-1876 - p 102

3751. *Evidence. Proof of dates.* Stern's U. S. Calendar is competent evidence, and admissible without proof.

3777 = *Books of accounts* / 82-1-1877 = 3811 = *he, convey from it to me, etc.*

3818. *Records lost or destroyed. Re-recording and its effect.* "Whenever the book containing the record of any deed, will, execution or other paper, the record of which is provided for by law, is burned, destroyed or lost, or when the record of such paper shall have been incorrectly made, or destroyed by mutilation or otherwise, the person whose duty it is to record such paper shall, upon receiving the fees for such cases provided, record the said paper, together with the certificate or certificates of former record thereof. In case of the loss or inaccessibility of such original paper, the records above provided for, or certified copies thereof shall be admitted as evidence in all cases where the original record, if had, would be admissible."

Acts 1882-3, p. 96.

3816 = *Examination of records* / 82-1- p. 109

"It shall be lawful for the Clerks of the Superior Courts in this State to record the second time any deeds, mortgages or other instrument of record, and the certificate of record when the record of such deeds, mortgages, or other instrument of record is lost or destroyed by fire, and such re-recording shall be as legal and valid as the first recording had said records not been destroyed or lost, to take effect from the date of the first record; *provided*, the second record is within twelve months after the loss or destruction of the first, or from the passage of this Act."

Acts 1882-3, p. 148.

The last Act allows *copies* of lost, stolen, mutilated or destroyed records to be *established by the Superior Court*. Copies so established are evidence just as the originals. The proceeding is commenced with *petition by the Ordinary*, which may be filed at any term and tried at the first term after or during which the same is filed; and is to be given precedence over all other business. In vacation the Judge may appoint an *Auditor* to pass upon the copies, whose report, if unobjection to, is made the judgment of the court. Any objection to the correctness of the report must be filed within thirty days after the filing of the report and be tried *by the court*.

See Acts 1887, p. 112.

3845. *State's witnesses from other counties.*

Line 17. Instead of "on" put "in." B. R. No. 75.

3854. par. 5. *Evidence. Attorney competent. Privileged communications.*

7. ad 93-p53 [This paragraph is repealed and the following substitute provided]: "No attorney shall be competent or compellable to testify in any court in this State, for or against his client, to any matter or thing, knowledge of which he may have acquired from his client, by virtue of his relations as attorney, or by reason of the anticipated employment of him as attorney, but shall be both competent and compellable to testify, for or against his client, as to any matter or thing, knowledge of which he may have acquired in any other manner."

Acts 1887, p. 30. - *7-11-1901-1-107- and 87-p.30*

3861-1- Imprecating ones witness - 1901-1-78
3889. [a]. *Reception and delivery of Depositions and Interrogatories sent through the mail.* "Whenever any package containing interrogatories or depositions shall be received by mail, the postmaster of the office to which they are directed shall immediately upon their receipt endorse upon the package the fact of its reception by due course of mail, and shall at once deliver the package to the clerk or presiding judge, or justice of the court, to whom it is directed. The clerk or presiding judge, or justice of the court shall receive all such packages, either in term time or vacation, indorsing thereon from whom received and the time of its reception; if it be received in vacation, it shall be the duty of said clerk, presiding judge or justice, to file the same away with the seal unbroken until the next regular term of the court; *provided*, nevertheless, that said package may be opened at any time by consent in writing of counsel for both sides."

Acts 1882-3, p. 102.

3906. *Qualifications of grand jurors. Certain persons incompetent.*

"County commissioners, tax receivers, tax collectors, members of the county board of education, county school commissioners, ordinaries and county treasurers shall be incompetent to serve as grand jurors during their term of office."

Acts 1887, p. 53.

3910 (a.) *Jury commissioners. Attorneys disqualified.* "It shall be unlawful for any practicing attorney at law in this State to hold the office of Jury Commissioner in any county of this State, or exercise the functions thereof; *provided*, that nothing herein shall disqualify any Jury Commissioner, now in office, and not heretofore disqualified, from service as such, during the balance of his term as commissioner."

Acts 1887, p. 52. *A. Act 1852 = 61. p*

Jury commissioners' duty. Annual revision of jury lists in certain counties. After "Article," insert: "Provided, that in those counties within whose limits there is an incorporated town of ten thousand or more inhabitants, the revision of the jury lists shall be annually made by said jury commissioners." Moreover, "in determining the number of inhabitants of any town, the last preceding census of the United States shall be taken as evidence."

Acts 1887, p. 31.

Oath of jury commissioners and of clerk.

Of commissioners: "You shall faithfully and impartially discharge the duty of jury commissioner for the county of _____, in accordance with the Constitution of this State, to the best of your skill and knowledge, and the deliberations and counsel of the jury commissioners while in the discharge of their duties, you shall forever keep secret and inviolate, unless called upon to give evidence thereof in some court of justice or other legal tribunal of this State, so help you God." This oath is to be taken and subscribed before the Ordinary and entered on the minutes of the court.

The clerk of the Superior Court (*ex officio* clerk of the board) swears to faithfully discharge his duties and never to divulge any of the proceedings and deliberations of the jury commissioners, unless compelled to testify thereof in court.

Violation of either oath is punishable by penitentiary from one to five years.

Acts 1882-3, p. 101.

3910 (f.) *Book lists of juries. Need not be certified by Ordinary.*

Line 7. Omit "Ordinary." B. R. No. 70.

3912. *Grand jury, how drawn in vacation.* The Ordinary need not act with the commissioners.

Lines 3, 4. Omit: "Ordinary of the county in which such failure may have occurred, together with the."

B. R. No. 70.

3913. *Grand jurors, how summoned.* They are incorrectly spoken of as "drawn by the *Ordinary* and commissioners." Omit, in line 3, "Ordinary and."

B. R. No. 70.

3914. (a)-(b). *Juries for City Courts. Drawing and selection.*

Adenda, p. vi; B. R. No. 71.

3926. *Selection of special juries.* "All special juries provided for by the laws of this State, may, in the discretion of the Judge, be selected from either the grand or traverse jury or both."

Acts 1884-5, p. 93.

3929. *Oath of Superior Court bailiffs in charge of juries* In lieu of section 3929: "The following oath shall be administered to all bailiffs on duty in the Superior Courts of this State, to-wit: 'You shall take all juries committed to your charge during the present term to the jury-room, or some other private and convenient place, where you shall keep them without meat or drink (water excepted), unless otherwise directed by the court. You shall make no communication with them yourself nor permit any one to communicate with them, except by leave of the court; you shall discharge all other duties which may devolve upon you as bailiff to the best of your skill and power: So help you God.'"

Acts 1887, p. 33.

3936. *Separate panels of jurors to be drawn each week.*

As to *grand jurors*, such drawing is made discretionary with the Judge.

Line 4. Erase "both grand and."

At end. Add: "He may also draw separate panels of grand jurors for each week if, in his opinion, the public interests require it."

Acts 1884-5, p. 41.

3937. *Tales jurors may be summoned from the jury boxes of the county.*

Line 4. Read: "The court may, in his discretion, draw the tales jurors from the jury boxes of the county and order the sheriff to summon the jurors so drawn, or order the sheriff," etc.

Acts 1884-5, p. 63.

3937. [a]. *Tales jurors. Who exempt.* "No person shall be competent or compellable to serve as a tales juror upon either the grand jury or traverse jury in any of the Superior Courts of this State more than two weeks at any one term; provided, that the provisions of this Act shall not apply to any person regularly drawn for jury duty; provided, that the provisions of this Act shall not apply to jurors actually engaged in the trial of any case at the expiration of said two weeks."

Acts 1882-3, p. 99.

Amended, by striking out, "either the grand jury or," and putting in "the" before "traverse jury."

Acts 1884-5, p. 90.

3937. [b]. *Pay of tales jurors.* "All tales jurors in the several courts of this State shall be paid as follows, to-wit: For the time of actual attendance upon the court, whether they be sworn and serve or not, one-half the amount paid other jurors who are actually sworn and serve, and if said jurors are actually sworn and serve, to be paid as other jurors are paid; *provided, however*, no tales juror shall be entitled to compensation under this Act, unless he shall have been required to attend court as such tales juror for as long as one entire day or more; *provided*, that the time of service of such tales jurors shall only date from the time the sheriff shall furnish to the clerk the list of said talesmen who are present in court."

Acts 1882-3, p. 108.

3939. *Persons exempt from jury duty. Police. Telegraph linemen. Militia. Physicians.*

Members of the police forces and marshals of towns and cities are exempt from jury duty.

Acts 1884-5, p. 94.

Telegraph linemen, while actually engaged in repairing lines, are exempt from jury duty.

Acts 1884-5, p. 102.

As to what members of volunteer militia companies are exempt, see 1103 (a).

Physicians in actual practice are liable to serve on the jury in cases of examination for guardianship or commitment to the asylum of a person thought to be insane.

Acts 1882-3, p. 99.

3940. *Compensation of jurors and court bailiffs. Fixed by grand jury.*

Line 5. Instead of "jurors and court bailiffs in the Superior Courts," put "jurors in the Superior Courts and court bailiffs." B. R. No. 99.

The pay where no grand jury is empaneled remains the same as fixed by the last grand jury.

Adenda, p. viii; B. R. No. 99.

3947. *Refreshments for jury. How paid for.* The Judge draws "his warrant on the officers whose duty it is to audit claims against the county [instead of "on the County Treasurer"] where the investigation is had who shall order the same to be paid out of any funds on hand."

Acts 1884-5, p. 43.

3971. *Foreclosure of mortgages on personality.* The affidavit may be attached to a sworn copy as well as to the mortgage itself.

Line 9. After "annexed to such mortgage," insert; "or a copy thereof sworn to by said person, his agent or attorney in fact or at law, as being a true and correct copy of said mortgage."

After "when such mortgage," insert: "or sworn copy thereof."

Acts 1882-3, p. 74.

4-1772-762.

Foreclosure before debt is due. Whenever the mortgager of personality or purchaser (with notice) of the mortgaged property places himself in a position where attachment could issue against him, the mortgage may be foreclosed at once.

3974 [b.] *Sale of the mortgaged property.* *What notice required.*
Instead of "thirty" days, put "ten."

Acts 1882-3, p. 67.

3974 (d.) *Notice to be given mortgager.* No longer required, since this section is repealed.

3976 = *Banker offered* - *How sold* in *Banker offered* - *81*
Acts 1882-3, p. 67.

3995 (b.) *Establishment of lost papers. Service on non-resident.*

Line 7. Instead of "Chapter," put "Article." B. R. No. 47.

4001 = *Debtors to their trial made by 3rd person* / *83-1-1*
4003. *Partition of lands and tenements. Place and notice of sale.*

Line 14. Instead of "Court House," the sale must be "at the place of public sales," of the county.

Last line. Instead of "for at least thirty days," the sale must be advertised "once a week for four weeks."

Acts 1887, p. 29.

4004. *Partition of lands Sale. Return of Commissioners.*

Line 4. Instead of "to the next term," the return must be made "to the same term of the court ordering such sale, if then in session, and if at the time of said sale the court shall have adjourned, then to the next term thereof, —."

Acts 1884-5, p. 54.

4011. *Habeas corpus. When Ordinary cannot grant.*

At end. Add "nor in cases of parties held for extradition under warrant of the Governor of the State."

Acts 1884-5, p. 50.

4027. [a]. *Mode of bringing Convicts into court to testify.*

14057-*Certiorari* By application to the Governor, approved by the court. In case of application by the State, the expenses are paid by the State. In case of application by the defendant, the expenses are taxed in the bill of costs in the event of conviction; otherwise they are paid by the State. This mode is not exclusive of others but cumulative.

Acts 1882-3, p. 106.

4049. *Conveyance in Criminal cases* / *1882-62* (Criminal case)

4082. *Distress Warrants. Who may levy.* Sheriffs and their deputies may levy where the amount exceeds one hundred dollars. B. R. No. 19.

4095 = *A. 1882-64-1*

4097. (a). *Nuisances. How jury is obtained in grist and saw mill cases.*

Line 9. Instead of "twelve," put "panel of twenty-four."

Line 18. Erase "jury for the trial of said nuisance," and put "panel of twenty-four, and from said panel a jury of twelve shall be stricken, the parties, plaintiff and defendant, having six strikes each."

Acts 1882-3, p. 71.

14057-*Conveyance of land for the use of a month*
14057-*Conveyance of land for the use of a month*
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14057-*Conveyance of land for the use of a month*

[These changes increase the manufacturing capacity of the Ordinary's magical box. He puts in "one hundred pieces of paper," and draws out "twenty-four jurors"!].

4101. *Inquests. Pay of Jurors.* The annotation on this section, referring to 60 Ga., 612, states that there is no law for remuneration of jurors in cases of inquest. But now a pay of *one dollar a day* is provided.

Acts 1884-5, p. 92.

4127. *Jury fees.* Abolished by the repeal of this section.

Acts 1884-5, p. 46.

4130. *Justice's Court. May adjourn from day to day.*

Line 6. After "places," insert: "And when from any reason the business in such courts cannot be disposed of in one day, it shall be lawful for said courts to hold from day to day, or to such time as may be agreed upon by the parties, with the consent of the court, until the business is disposed of."

Acts 1884-5, p. 48.

4139. *Justice's Court. Service of process.* Sheriffs also may serve summons or any other process issuing from the Justice's Court.

Acts 1884-5, p. 68.

4151. *Justice's Court. Evidence. Proof of account.* The first part of this section now reads: "Where suit is brought upon an open account in a justice court, such account *may* be proved by the written affidavit of the plaintiff," etc.

Lines 2-4. Strike out: "against a party who has removed from the county in which the debt was contracted, or who resides out of the county in which the debt was contracted." This necessitates a change in the title of the section.

At end. Add: "provided, that in all cases when such affidavit is made, there shall be personal service on the defendant before judgment is given for the plaintiff under the provisions of this section; provided, further, that in all cases where a counter affidavit is filed by the defendant, and the plaintiff is not present at the court, it shall be the duty of the justice of the peace to continue the case until the next term of said court; and provided, further, that nothing in this section contained shall apply to suits against administrators and executors on contracts of their deceased testators and intestates."

Acts 1882-3, p. 58.

4154. [a]. *Justice's Court. Cases—when tried.* "Whenever the defendant in any civil suit in the justice's courts on an unconditional contract in writing makes defense, he shall make such defense at the first term of said court. When such defense is thus made, the cause shall stand for trial at the next regular term of said court (subject, however, to continuance, as now provided by law); provided, however, that said cause may be tried at the term when said plea is filed, if the plaintiff, his agent or attorney is present consenting thereto."

Acts 1882-3, p. 103. 190-1-111

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below, and mail to
the Georgia State Library*

4154. (b). *Justice's Court. Appeals to the Superior Court.* It is in the appellant's option, where such an appeal is allowed, to refer the case to a jury in either court.

Acts 1882-3, p. 95.

Defense in writing. "It is the duty of the defendant in cases appealed from the Justice's Court to the Superior Court, to reduce his pleas or defenses to writing before the case proceeds to trial in the last mentioned court; *provided*, he relies on any other plea or defense than the general issue, and *provided*, also, that nothing contained in this Act shall be so construed as to abridge his right to amend his pleadings as in other cases."

Acts 1884-5, p. 97.

4157 (c). *Justice's Court. How juries are made up in appeal cases.*

Line 8. After "No. 1," insert: "If the list is in the discretion of the justice of the peace or notary public, as the case may be, too small, then the justice of the peace, notary public and one of the jury commissioners, and if no notary, then the justice of the peace and two of the jury commissioners of the county, may select from the list of the tax-payers of the district such a number of the most upright and intelligent men, as they may see fit and proper, to add to said list of jurors; *provided, however*, that the list, when so increased, shall not exceed one-fourth of the voting population of the district."

Line 10. Instead of "five," "nine names" must be drawn.

Line 14. Erase: "shall try the causes pending in the appeal in said courts, and—".

Line 17. After "trial," insert: "from cause or absence."

At end. The constable "shall complete the jury by talesmen, *to nine*, from whom the plaintiff and defendant shall have two strikes each."

Acts 1882-3, p. 64.

4161. *Garnishment in Justice's Court. Answer of garnishee.*

Line 2. The Code has "issued," where the act has the proper word "sued."

Acts 1880-1, p. 57.

Line 9. The punctuation of this line is wrong. The words "after judgment obtained," belong to the second sentence of the section.

B. R. No. 111.

4163. *Illegality in Justice's Court. Time of trial.* Erase all of the section after "it shall be," and put "tried at the next regular term of said court convening after said illegality has been returned to said court for five days."

Acts 1882-3, p. 58.

4181-187-41

4184. *Equity. Time of service of bill.*

Last line. Instead of "twenty-five," must be served "fifteen" days before return term.

Acts 1882-83, p. 49.

4185. *Equity. Service of bill and subpoena.*

Line 12. After "months," insert "which order to perfect service may be granted by the judge in vacation."

Acts 1884-5, p. 56.

[There is another difference between the text of the Code and the recital of the act as amended. The time of publication (in case of service that way) are stated in the act as required to be "twice a month for two months." No previous act is found authorizing the change. Nor does this do so, as the change is neither noted in the title of the act nor stated as an amendment to be made. It therefore does not come up to the constitutional requirements in §§5067, 5076.]

4194. *Equity. Answer, time of filing.* The answer in all cases must be filed "within thirty days after the first term of the court." The exception (allowed by the act of September 24, 1881, in case of a demurrer or plea filed, but not determined, at the first term) is abolished by the repeal of that act. The part of the section to be omitted extends from "except" (line 3) through "bill and answer" (line 14).

Acts 1882-3, p. 54.

4202-3. *Equity. Master or Auditor. Report and exceptions.*
On this subject, Acts 1884-5, p. 98, are quoted at 3097.4214. *Equity. Decrees in vacation. Subject matter enlarged.*

Line 3. After "part," insert, "and in all matters of contract."

4250-2 *Acts 1882-3, p. 69.* *Supreme Court Cases & Supreme Ct. 1/80-1-p 82*

4251. *Bill of exceptions. What to contain. Parties may agree* in writing how much of the record need be sent up to the Supreme Court, and if approved and certified by the judge, the clerk shall make out and transmit only so much. When more than one bill of exceptions is filed, *one transcript* of the record suffices.

Acts 1882-3, p. 107. *= 1/87-p 54 # 1/89-p 119*

Cross-bill of exceptions. When Supreme Court must hear argument on. Add at end: "or if the effect of the affirmance is to leave the case to be again tried in the court below."

4252 *Acts 1887, p. 41.*

4259. [a]. *Bill of exceptions. Service.* "No case hereafter brought to the Supreme Court shall be dismissed upon the ground that the service of the bill of exceptions was made, acknowledged or waived after such bill of exceptions shall be filed in the office of the clerk of the Superior Court, or City Court, of the county from which error is or shall be taken; *provided* such service shall be made within the time required by law."

4261 *Acts 1884-5, p. 102. Bill of exceptions and cross-bill 1-p*

4272. (b). *Proceedings in Supreme Court. Essential Parties.*

No writ of error shall be dismissed simply because the bill of exceptions sets forth the parties differently from the record or shows that some party not interested in sustaining the judgment of the court below had not been served.

Addenda, p. ix; B. R. No. 127.

4285. [a]. Supreme Court. Transmission of opinion to lower court.

"In every case decided by the Supreme Court, where a further trial or hearing of the cause is to follow in the lower court, the clerk of the Supreme Court shall, as soon as said opinion is written out, transmit a copy thereof to the Clerk of the lower court, where the same shall remain on file for the information of said court and of the parties, and this the clerk of the Supreme Court shall do without charge to either of the parties. It shall be the duty of the Supreme Court on rendering its decision in any case to instruct the clerk whether or not the case comes within the terms [of this Act], and a note of such instruction shall be entered on the minutes of the Court."

Acts 1887, p. 106.

4290. [a]. Costs in Supreme Court. "When any cause in the Supreme Court of this State shall be withdrawn or dismissed, the cost to be paid by the plaintiff in error shall not exceed six dollars and a quarter."

Acts 1882-3, p. 112.

4291. *Taxing costs* 49/114-5-6

4323. Recommendation to mercy. In capital cases, such a recommendation is equivalent to the proper and legal recommendation of imprisonment for life in the penitentiary.

4371 = a. act '98-p 39
Acts 1875, p. 106; B. R. No. 25.

[Sustained by recent decision of Supreme Court.]

4372 = *Abusing & neglecting, lessening, 196-1-p 83*

4373. [a]. Train-wrecking. Definition and Punishment. "Any person or persons who shall, by any device whatever, wreck, or attempt to wreck, any railroad train, locomotive or car, or coach or vehicle of any kind, when used or run on any railroad track for the purpose of travel or transportation, or assist or advise it to be done, such person or persons shall be guilty of a felony, and upon conviction thereof shall be punished by confinement in the penitentiary for life, unless the jury trying the case shall recommend the prisoner to mercy; in that event he shall be punished by confinement in the penitentiary for not less than five nor longer than ten years. If the conviction is founded solely on circumstantial testimony, the presiding judge without the recommendation of the jury, may in his discretion sentence the prisoner to confinement in the penitentiary for not less than five or more than ten years. If death ensues from such act to any person, the offender shall be prosecuted for murder."

212 V 22-
525-
Acts 1884-5, p. 131.

4375. Arson. Definition extended. "The fact that the person burning or attempting to burn the house or outhouse of another may be himself the occupant of such house or in possession of such outhouse, shall make the offense none the less arson or an attempt to commit arson respectively; provided such occupancy or possession is as tenant of the owner or as an intruder."

Acts 1887, p. 61.

4376. Punishment of arson. The death penalty may be commuted in the same manner as in section 4323 of the Code of 1873. B. R. No. 41.

4388. [a]. *Breaking and stealing from a railroad car.* "Any person who shall break and enter any railroad car with intent to steal any goods, wares, freight or other thing of value being therein, shall be guilty of a felony, and, upon conviction thereof, shall be punished by confinement in the penitentiary of the State for a term not less than one nor more than five years."

4391 *Acts 1882-3, p. 132*
Robbery = 50-1-p 83

4396. (a). *Riding or driving horse or mule without owner's consent.* A misdemeanor with the punishment prescribed in §4310.

4408 = *Stealing from master's mules / 50-1 = 85-*
Addenda, p. x; B. R. No. 131.

4421 [a]. *Use or borrowing of property of corporation by officer or agent.*

"It shall be unlawful for any officer or agent of any bank or other corporation to use or borrow for himself, directly or indirectly, any money or other property belonging to any bank or other corporation of which he is an officer or agent without the permission of a majority of the Board of Directors, or of a committee of the Board authorized to act, and said agent or officer so offending, or any other officer or agent of same corporation loaning money or property of the said corporation to another agent or officer thereof without the permission of a majority of the Board of Directors, or of a committee authorized to act, shall be held guilty of a misdemeanor, and on conviction shall be punished as prescribed in section 4310 of the Code; *Provided*, that nothing herein shall be held to relieve any officer so offending from the pains and penalties of any other violation of the penal laws of this State when the same is committed by using or borrowing the property of said corporation without the permission herein required."

Acts 1887, p. 94.

4435 = *A. C. or 573 page 40*

4440. [a]. *Trespass further defined.* "If any person shall enter, go upon or pass over any field, orchard, garden or other enclosed or cultivated land of another, after being personally forbidden so to do by the owner or person entitled to the possession for the time being, or authorized agent thereof, shall be guilty of a misdemeanor, and on conviction, be punished as provided in section 4310 of this Code."

Acts 1882-3, p. 121.

4441. *Illegal hunting.*

Line 3. Read: "inclosed lands or cultivated fields," etc.

Acts 1882-3, p. 73.

4441. *"Posting" defined.* Where not otherwise prescribed, posting notices in at least six places in conspicuous positions on or near the boundaries of the land, and at the county courthouse, is sufficient.

Acts 1887, p. 61.

4441. [a]. *Driving stock from another state to graze in Georgia.*

"It is not lawful for any person, either by himself or another, to drive any horses, mules, hogs, cattle or other live stock from another State into any county of this State for the purpose of grazing the same, or after having driven the same into any county of this State

shall permit them to graze or run at large in any marsh or forest range in any county of this State; *provided*, that the provisions of this Act shall not prevent persons owning lands in this State from driving or permitting the driving of such stock to their own premises there to be kept. Any person violating any of the provisions of this Act shall be guilty of a misdemeanor, and, on conviction, be punished as is prescribed in section 4310 of the Revised Code."

Acts 1882-3, p. 129.

4459. [a]. *Conveying lands by forged title.* "If any person shall sell, lease, rent or otherwise convey to another, any lot or parcel of land or the timber thereon, the title of which is forged, or the grant or any deed or conveyance thereof is forged, knowing the same to be forged; or if any person shall take possession of, or occupy or exercise any acts of ownership over any lot or parcel of land or the timber thereon, under any grant, deed, bond, lease, or other conveyance, which is forged, or any part of the title thereof is forged, knowing the same to be forged, such person or persons shall be guilty of a felony, and, upon conviction thereof shall be punished by imprisonment in the penitentiary for a term not less than one nor more than five years, in the discretion of the court; *provided*, that the provisions of this Act shall not apply to any person whose title or possession was acquired by him or those under whom he claims *bona fide* and without notice of the fact of such forgery."

Acts 1882-3, p. 125.

4483. (a). *Escape from chain-gang, how punished.*

Lines 7, 8. Erase: "in the chain-gang by a re-sentence at least double the term for which such person or persons was originally sentenced," and put: "as prescribed in section 4310 of this Code."

Acts 1884-5, p. 52.

4484. *Escape from penitentiary. Punishment.*

Line 5. Instead of the term "four years," put "any time not less than three months nor longer than four years."

Acts 1882-3, p. 48.

4499. [a]. *Interference with employees.* "If any person, or persons, by threats, violence, intimidation or other unlawful means, shall prevent or attempt to prevent any person or persons in this State from engaging in, remaining in or performing the business, labor or duties of any lawful employment or occupation; or if any person or persons, singly or together, or in combination, shall conspire to prevent or attempt to prevent any person or persons by threats, violence or intimidation from engaging in, remaining in or performing the business, labor or duties of any lawful employment or occupation; or if any person or persons, singly or by conspiring together, shall hinder any person or persons who desire to labor from so doing, or hinder any person by threats, violence or intimidation from being employed as laborer or employee, or by the means aforesaid shall hinder the owner, manager or proprietor for the time being from controlling, using, operating or working any property in any lawful occupation,

or shall by such means hinder such persons from hiring or employing laborers or employees, such persons or persons so offending shall be deemed guilty of a misdemeanor, and on conviction be punished as prescribed in section 4310 of the Code of Georgia."

Acts 1887, p. 107.

4500. *Illegal employment of the servant, cropper or farm-laborer of another. Punishment.*

Line 2. After "servant," insert cropper or "farm-laborer."

Line 5. After "servant," insert "cropper or farm-laborer."

Line 7. After "servant," insert "cropper or farm-laborer, whether under a written or parol contract, after he, she or they shall have actually entered the service of his or her employer."

Line 9. After "servant," insert "cropper or farm-laborer."

Acts 1882-3 p. 60.

At end. Erase: "fined any sum not more than two hundred dollars, or be confined in the common jail of the county, at the discretion of the court, not to exceed three months," and put "punished as prescribed in section 4310 of this Code."

Acts 1882-3, p. 57.

4504. [a]. *Malpractice by Justice of the Peace.* While under indictment or presentment, the justice is disqualified. If he acts notwithstanding, he is punishable as prescribed in §4310.

Acts 1884 5, p. 103.

4505. *Dockets of Justice and report of books to be laid before grand jury.*

Line 17. Instead of "these books," put "such books."

B. R. No. 115. ~~A 4 1885 - 103~~

4506. [a]. *"Blackmail" defined. Punishment.* "If any person or persons shall, either verbally or by printing or writing, accuse another of a crime or offence, or expose or publish any of his or her personal or business acts, infirmities, failings, or compel any person to do any act or to refrain from doing any lawful act, against his or her will, with intent to extort money or other things of value from any person, or if any person or persons shall attempt or threaten to do any of the acts above enumerated against any person with the intent to extort money or thing of value, such person or persons so offending shall be deemed guilty of blackmail, and on conviction shall be punished as prescribed in section 4310 of the Code; *Provided*, that no court in this State shall have jurisdiction to enquire into any presentment made, or indictment found, by the grand jury of the county in which the offence has been committed."

Acts 1887, p. 58.

4512. *Receiving stolen goods from a negro. Repealed.*

Acts 1882-3, p. 71.

4527. *Carrying concealed weapons.*

Line 3. Erase "except horseman's pistol."

Acts 1882-3, p. 48.

4529. [a]. *Firing gun or pistol on or near public highway.*

"It is unlawful for any person between dark and daylight wilfully and wantonly to fire off or discharge any loaded gun or pistol on any of the public highways of this State, and within fifty yards of any such public highway, except in defense of person or property or on his own premises. Any person who violates the provisions of this Act shall be guilty of a misdemeanor and shall be punished as prescribed in section 4310 of this Code."

Acts 1882-3, p. 131.

4533. *Incestuous marriage.*

Line 3. Instead of "affinity," put "within any of the relationships, by affinity, enumerated in section 1700 of this Code."

Acts 1886, p. 30.

4538. *Keeping gaming house or room, etc.*

Line 6. Instead of "any other game played with cards," put "any other game or device for the hazarding of money or other thing of value."

Acts 1884-5, p. 59.

4540. [aa]. *Sale of liquors to habitual drunkard.* "It is not lawful for any person to sell or furnish any spirituous, malt or intoxicating liquors of any kind, in any quantity, to any habitual drunkard personally known to him, of whose intemperate habits such person has been notified in writing, protesting against the selling or furnishing such intoxicating liquors by the wife, father, mother, brother or sister of such drunkard. Any person violating the provisions of this Act shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished as prescribed in section 4310 of this Code."

Acts 1882-3, p. 130.

4551. *Sale of adulterated food or drink.* Knowingly to sell or offer for sale any adulterated article of food or drink, unless accompanied by a true analysis of the article and notice to the purchaser, is a misdemeanor punishable as prescribed in §4310.

Acts 1882-3, p. 128.

4557. [aa]. *Sale of morphine.* "On and after the first day of January, 1886, it shall not be lawful for any druggist or other dealer in drugs and medicines, to sell or offer for sale any sulphate or other preparations of morphine in any bottle, vial, envelope or other package, unless the same be wrapped in a scarlet paper or envelope, and all bottles or vials used for the above purpose shall have, in addition to said scarlet paper wrapper, a scarlet label lettered in white letters plainly naming the contents of said bottle. Any one violating the above provisions shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten nor more than fifty dollars, at the discretion of the court, for each and every violation of the Act."

Acts 1884-5, p. 134.

4557. [bb]. *Illegal sale of opium.* "It shall not be lawful for any druggist, pharmacist or other person selling opium and its preparations by retail, to sell, give or furnish, directly or indirectly, opium or its preparations, containing more than two grains of opium to the ounce, in any quantity to any person habitually addicted to its use, after written notice from the near relative of such person that he or she is habitually addicted to its use, except upon the written prescription of a physician setting forth the necessity of its purchase and showing the good faith of the prescription."

Acts 1887, p. 97.

4559. [a]. *Importation for sale of second-hand clothing.* Prohibited, unless accompanied by a certificate from the proper officer of the Board of Health of the place from which such clothing may have been shipped, stating that it has been properly disinfected, that there is no danger of spreading contagious diseases, the character and number of garments and the date of disinfection. This certificate must be recorded in the Clerk's office of the Superior Court of the county where the clothing is offered for sale, before it is so offered. Violation of this Act is punished by imprisonment in the county jail for not less than six nor more than twelve months.

Acts 1884-5, p. 137.

4559. [b]. *Cutting turpentine boxes.* "Any person or persons who shall cut turpentine boxes at any other season of the year than from the 15th of November to the 1st of March, on his own land, or the land of another, shall be guilty of a misdemeanor, and on conviction thereof shall be punished as prescribed in section 4310 of the Code. When there shall be a conviction under this Act, the fine imposed and collected shall be paid over to the county treasurer of the county in which such conviction shall be had."

Acts 1887, p. 103.

[The reason of this act is explained in the preamble to be to prevent danger to health from death of the trees and droughts caused by destruction of the forests.]

4562. (a). *Granting medical diplomas illegally.*

Line 13. The fine is to be paid not "the one-half to the person, persons or corporation giving the information, the other half into the county treasury," but the whole "into the State treasury."

At end. Add: "It shall be the duty of Judges of the Superior Courts, in counties of this State where medical colleges are located, to give this act in charge to Grand Juries, whose duty it shall be to see that the same be enforced."

"Nothing in the first section of this act [i. e. the one making the change noted above] shall be so construed as to make it unlawful for any medical college in this State to graduate a student who has taken two courses of lectures, though he may have been absent at times, so that he was not absent more than one-fourth of the term or course."

Acts 1884-5, p. 62.

4563. *Disinterring or purchasing dead bodies. Unclaimed bodies for dissection.*

The act of August 3, 1887, creates a board for distribution and delivery of such bodies as are allowed to be used for scientific purposes. Proper regulations as to record of distributions by said board; notice and delivery to said board of unclaimed, uninfected bodies by persons having charge of same; power of relations to claim; notice of the death before the court-house door before delivery to the board, and retention by the board for sixty days; burial in certain cases; bond by school or college to use only for scientific purposes; and so forth fully prescribed. Disinterring or purchasing a dead body is made a felony, punished by one to ten years in the penitentiary.

4564. ^{See Acts 1887, p. 87.} ~~part 1887, p. 86 S-6-12 2 55~~

4565. *Selling spirits without license.*

Line 2. Erase "by the quart."

Line 3. Erase "in quantities less than one quart."

Line 7. Instead of "Ordinary of the county," put "proper authority invested by law with power to issue license in said county."

Acts 1882-3, p. 62.

4568. (a). *Illegal voting.* This section is in amendment of the next. B. R. No. 95.

4568. [b]. *Illegal voting at municipal elections.* "Any person who shall vote illegally at any municipal election in this State may be indicted therefor, and, on conviction therefor, shall be punished as prescribed in section 4310 of the Code of 1882."

Acts 1882-3, p. 140.

4570. *No liquor at primary elections. Definition of "primary."*

Line 5. After "municipal," insert: "or primary elections."

At end. Add: "Primary elections shall be construed to mean elections by ballot for the nomination of a candidate or candidates for office as opposed to nomination by conventions, to run at subsequent elections to be held under the laws of this State, for State, county or municipal offices."

Acts 1887, p. 42.

4578. *Running freight trains, etc. on Sunday.*

Line 2. After "train," insert "excursion train or other train than the regular trains for the carrying of the mails or passengers."

Acts 1882-3, p. 66.

4586. [b]. *Oleomargarine.* "It is not lawful for any manufacturer, merchant, shop-keeper or other person in this State, to sell or expose for sale the product known as 'oleomargarine' without first branding, marking or labeling the same in a legible and conspicuous place with the word 'oleomargarine,' so as to be easily observed by persons offering to purchase, and also without first informing the person offering to purchase that the article is oleomargarine. It is not lawful for any proprietor, keeper or manager of any hotel, inn, restaurant or house of public entertainment, to furnish, offer or set before his guests the article known as 'oleomargarine' without first putting his guests on notice by posting in conspicuous places in the dining room and in all

other rooms where the guests of such house are accustomed to take meals, and also in the private rooms of the guests, notices that can be easily observed and read by the guests in the following words: 'This house uses oleomargarine,' and also by printing said notice on their bills of fare, when any bills of fare are used by any such house. Any person knowingly violating the provisions of this Act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished as prescribed in section 4310 of this Code."

Acts 1882-3, p. 124.

4600. *Wrongful sale of mortgaged property. Punishment.* Instead of fine or imprisonment, it would seem the punishment should be that prescribed in section 4310.

B. R. No. 20.

But in the late Act amending this section, the punishment recited is confinement "in the chain gang or the county jail for a period not more than twelve months," in default of payment of the fine.

4600(a) Acts 1887, p. 37. *sale of personal prop. under law - 187-1887-57*

4601 (a). *Jurisdiction to try wrongful seller of mortgaged property.* Instead of the "Superior" court, put "the proper court held for the county in which the party violating section 4600 resides, shall have jurisdiction to try the offender."

Acts 1887, p. 37.

4608. *Firing fences or grain. Punishment.* When the fire is communicated to a house, the punishment shall be not "as prescribed in section 4310 of this Code," but "imprisonment and labor in the penitentiary for a time not less than five years nor longer than twenty years."

Acts 1882-3, p. 72.

4612. (a) *Cruelty to animals.* Punished as in section 4310.

B. R. No. 24.

But the decision of the Supreme Court in *McKinne vs. State*, March term, 1888, is adverse to this view of the punishment.

4612. (e). *Cruelty to animals. Killing in mercy.* "When any live stock of any person is so injured by the locomotives, cars or other machinery of any railroad company in this State, as to become valueless for ordinary uses, it shall and may be lawful for the owner of said live stock to procure the attendance of two disinterested persons to examine said live stock, and if said persons determine the injury to be of such character as renders the stock valueless to the owner for the purpose for which said owner kept said stock, then the owner may put said stock to death, or procure it to be done, without impairing in any way his right to recover damages from the company inflicting the injury upon his said stock. Nothing in the first section of this act contained shall be construed to prevent the authorities of any railroad company inflicting serious injury of the character named in said first section from putting live stock so injured to death."

Acts 1882-3, p. 146.

[This Act might, perhaps with more propriety, be put in connection with §3042 *et seq.*]

4625. (d). *Driving of diseased cattle.* Amended so as to prohibit also the driving of "work oxen or other cattle into or through" diseased localities.

Addenda, p. x; B. R. No. 132.

Additional Act: "Any person or persons who shall wilfully and knowingly drive or move for the purpose of grazing, any cattle from any locality infected with any distemper or infectious diseases to any place or places in this State where cattle are not liable to have said diseases (unless associated with cattle from localities infected with distemper or infectious diseases) shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished as prescribed in section 4310 of this Code."

Acts 1882-3, p. 147.

4625. (e). *Obstructing navigation or rafting.* Misdemeanor, punished as in section 4310.

Addenda, p. x; B. R. No. 136.

4637. *Statement of prisoner.* In the title of the section instead of "in cases of felony," it should be "in all criminal cases." B. R. No. 2.

4649. *Nolle prosequi, when and how allowed.* Entry of *n. p.* by the Solicitor seems to conflict with the first part of the section. Which will prevail? B. R. No. 63.

4655. (e). *Justices of the peace and others, how paid.*

Line 3. Erase "having a like claim for costs." B. R. No. 48.

4662 - A. act 173- b 41
4696. *Superior Court Reporter.* His compensation in criminal cases required to be reported is now fixed at fifteen dollars per day, but so as not to exceed \$2500 in any one year.

Acts 1884-5, p. 130.

4698. *Penitentiary convicts' term shortened for good behavior.*

The whole section is repealed and the following substitute provided: "The Superintendent of each penitentiary camp in this State shall keep a correct register of the conduct of each convict under his charge, to be termed the "good conduct account," in which he shall faithfully record the conduct of each convict under his charge, who shall demean himself or herself uprightly, and shall in his monthly report to the principal keeper of the penitentiary, state the name or names of such convict or convicts, and each convict who shall demean himself or herself uprightly and well, shall have deducted from the time for which he or she may have been sentenced, two months for the second year, three months for each subsequent year, until the tenth year, inclusive, and four months for each remaining year of the time of imprisonment. The reduction of time herein provided for is upon consideration of continued good conduct, and shall apply only to such convicts who have not been sentenced to imprisonment for life; and such record shall be evidence for or against the convict in any of the courts of this State."

Acts 1887, p. 38.

4709 (c). *Insolvent costs, how paid.* Costs are paid justices and constables out of fines and forfeitures, upon the order of the Judge of the Superior or City Court, where parties have been acquitted, or where they are unable to pay costs, "or where they have been bound over by the justice of the peace, or have been committed to jail in default of bail, and the grand jury make a return of 'no bill,' or when after an investigation of the case the parties have been discharged by said justices of the peace."

Acts 1882-3, p. 94.

4710. (a). *Judge may strike certain cases.*

Line 6. Instead of "the preceding," put "this." B. R. No. 46.
4711 = A. A. 1882-1 p. 65-

4789. *Duty of principal keeper of the penitentiary.* He is required annually, on or before the first of November, to send the Governor a *list* of convicts with certain other information.

4812 = Acts 1882-3, p. 92. *escape: 1882-1 p. 85*

4813. (a)-(s). *Convict lease system.*

Addenda, pp. II, III, V. VII; B. R. Nos. 3, 42, 43, 91.

4821. (e). *Good behavior of misdemeanor convicts encouraged.*

"It shall be the duty of all persons having charge of chain-gangs, composed of persons who have been convicted of misdemeanor and are working out their sentence, to keep a book in which shall be entered the names of the person or persons so under his charge, and at the end of each laboring day he shall record opposite the name of each their conduct during that day, and should it appear from this book that the conduct of any one has been good, and that he has been diligent in performing the work assigned to him, then such person's time of service and confinement shall be shortened four days in each and every month for the time of sentence."

Acts 1884-5, p. 89.

4875. *City of Savannah. Nuisances. Jurisdictional limits extended.*

Line 3. After "city," insert: "which jurisdictional limits shall extend one mile beyond the corporate limits, or any future extension of the same."

Acts 1882-3, p. 46.

5063. *Journals of the Houses of Legislature.* Provision restricting their publication and distribution.

Acts 1884-5, p. 134. (See 1046.)

5074. *Local bills.* The proposition of the legislature to strike out this paragraph was assented to by the people in the election held on the first Wednesday in October, 1886.

Acts 1884-5, p. 33.

5129. *Supreme Court Judges. Increase in number to five, proposed.*

This being a Constitutional amendment, was submitted to the people of the State at the general election held October 3d, 1888, and rejected.

Acts 1887, p. 25.

5140. *Equity merged in common law courts.* See 3082 [a].

5180. *Taxation, for what purposes.* Amended by adding at end: "and to make suitable provisions for such Confederate soldiers as may have been permanently injured in such service."

Acts 1884-5, p. 137.

Ratified by the people in election held on the first Wednesday of October, 1886.

[The legislature has taken advantage of its opportunities for recreation and exercise on artificial legs. Witness the numerous Acts:

Acts 1879, p. 41; Acts 1880-1, p. 50; Acts 1882-3, p. 44; Acts 1884-5, p. 32; Acts 1887, p. 27, provides compensation for injuries.]

5199. *Sinking fund to pay bonds of the State, provided in accordance with the Constitutional requirement.*

Acts 1887, p. 19.

5209. *State University.*

The latter part of this section authorizes the legislature to make appropriations for a colored university. This was carried into effect in giving aid on terms to *Atlanta University*.

Acts 1874, p. 32; Acts 1882-3, p. 87.

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Arms, etc. for students of all branch colleges of the University. Acts 1880-1, p. 103; B. R. No. 122.

Board of Trustees of the University. The Governor may be elected a member, whether there be a vacancy at the time or not. Acts 1882-3, p. 85.

Georgia Reports and Code for the State University. Acts 1884-5, p. 139.

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II. *General Local Option Law.* Acts 1884-5, p. 121.

Tax of ten thousand dollars imposed upon each dealer in wines [and so forth] not of his own manufacture, in counties where prohibition exists by virtue of special legislation or under the general local option law.

Acts 1887, p. 21.

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